

**DR. AMBEDKAR AS THE LAW MINISTER AND A  
MEMBER OF OPPOSITION IN THE INDIAN  
PARLIAMENT  
AUGUST 1, 1950  
TO  
DECEMBER 22, 1950**

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1

**\* DENTISTS (AMENDMENT) BILL**

**The Minister of Law (Dr. Ambedkar)** : If the Hon. the Health Minister is ill, I am asked to take charge of this Bill and I, therefore, beg to move:

"That the Bill to amend the Dentists Act, 1948, be taken into consideration. "

The Bill is a very short one and it does not involve any controversial matters. The Dentists Act of 1948 came into force on the 29th of March 1948. It was made applicable to Part A, Part C and Part D States. Under Section 49 of that Act, it is provided that no person shall be entitled to practise dentistry after the 28th March 1950 unless his name appears on a register of dentists which the Act required should be prepared in accordance with the rules contained therein. It was hoped that that register would be ready by the 28th of March 1950. Consequently, the operative portions of this Act were so framed to come into operation on the 28th March 1950. Unfortunately, this expectation has not been fulfilled. It was reported from various States that the register would not be ready by the 28th March 1950 and consequently it became necessary to extend the period by one year in order to enable the States concerned to prepare the register. As the Parliament was not then sitting, Government issued an Ordinance giving effect to the necessary provision extending the period up to the 28th March 1951. This Bill is intended to convert the Ordinance into law. The main provision therefore, is to extend the period for the purpose of preparing the register.

Advantage has been taken of the present occasion to amend the law in order to remove some of the difficulties which have been felt in giving effect to the original Act. Firstly, the original Act contained two provisions. One provision was not to allow any person who was not placed on the register to be employed in Government hospitals. Obviously, it was expected that this provision would become operative after the registers were ready. As the registers are not ready, persons who have not been placed on the register by reason—not of their not being qualified, but of the register not being ready—would become disabled from holding any office in Government hospitals. Therefore, it has become necessary to extend the period and permit such persons to hold office notwithstanding the fact that they are not placed on the register.

Secondly, there is a Dental School in Bengal which used to grant Diplomas in Dentistry. At the time when the Act was passed there was a controversy as to whether the diplomas granted by this Dental School of Bengal should be recognised to enable persons holding the diploma to be placed on the register. It was felt that the diplomas granted by the Dental School of Bengal were not sufficiently qualified to place them on the register. There has been considerable agitation by persons holding the diploma granted by the Dental School of Bengal that this disability should be removed. A compromise has been suggested by the Government of West Bengal according to which persons who have received their diploma before the year 1940, subject to certain conditions, may be treated as persons qualified to be entered upon the register. That compromise is also given a place in this Bill.

The Bill, therefore, contains three provisions : (1) to extend the period (2) to permit names of persons holding diplomas of the Dental School of Bengal in certain circumstances to be placed on the Register and (3) to continue the employment of unregistered dentists in the Government hospitals till 1951 until the register is prepared.

This is all that the Bill contains and I hope that the House will not find any difficulty in giving its assent to the Bill.

**Mr. Speaker** : Motion moved :

"That the Bill to amend the Dentists Act, 1948, be taken into consideration. "

**Shri Sidhva (Madhya Pradesh)**: First of all, I take strong exception to the issue of an ordinance when the House was sitting in the month of March.

**Dr. Ambedkar**: The ordinance was issued some time in May.

Clause 2

**Dr. Ambedkar**: I wish that the points that were raised by my hon. Friend

Mr. Sidhva and Pandit Thakur Das Bhargava had been reserved by them to the time when their amendments were taken up. It becomes somewhat embarrassing to reply on matters which would, I have no doubt, be raised again when their amendments are moved. But, I cannot help now having to reply to the points raised by them; I shall do so rather briefly, because I know I shall have to say ....

**Mr. Speaker:** I do not propose to allow any arguments on the amendments.

**Pandit Thakur Das Bhargava :** I am not going to move my amendment if my hon. friend does not accept it.

**Dr. Ambedkar :** Mr Sidhva has raised one or two points. The last point raised was why an Ordinance was made when the House was in session. The answer to that is two fold. The first is this. The first request that was made to the Government of India in the matter of extension of time for the preparation of the register came from the Government of Madras, and that too on or above the 15th of March 1950. That means that only 18 days had been left for the period for the preparation of the roll to expire. That is one reason. The second reason is that after the receipt of this letter from the Government of Madras, informing the Government of India that it was not possible for them to complete the Register, naturally it was necessary for the Government of India to find out from other States as to whether they were in a position to prepare their list by the date fixed, or whether they too wanted some extension. Naturally, there ensued correspondence between the Government of India and the various other States.

They undoubtedly took time, and must make time, with the result that by the time the Government of India had received the replies and was able to assess whether an amendment in terms proposed by the Government of Madras was necessary, Parliament had been prorogued. That is the reason why the measure could not be brought up before the recess.

The second point raised by my friend Mr. Sidhva was this that he did not see any reason why we should make a statutory provision for the recognition of certain qualifications granted by the Bengal Dental School. According to him that was a matter which by the Act is left to the Dental Council. Now, I think my friend Mr. Sidhva has missed one important point and it is this. The power to grant recognition vested in the Council relates to qualifications or degrees granted by schools in existence; but we are dealing with a matter in which degrees and diplomas have been granted by a body which has become defunct. Consequently, it is for the Government of the day to decide whether the degrees granted by a school giving tuition in dentistry were worthwhile recognition or not. It is not a matter which should be left to the Bengal Council under Section 10, sub-clause (2). The word is " grants " which means " is

granting at present " and not diploma which have been granted before. That being so it cannot be a matter which could be left easily to be dealt with by the Dental Council under its power, and if we have to amend the Schedule, then that must be done by the law itself. That is why a legal provision is made in the Bill to cover that particular matter.

Now, what I have said with regard to the Bengal Dental School also applies to what my friend Pandit Thakurdas Bhargava said on the very same question.

I come now to the points raised by Mr. Kamath. The first point raised by him was more or less of a technical character. If I understood him correctly, he said that the law required that the Register should be ready on the 28th March, 1950, and that if a person was not on the Register, then under the provisions of Sections 46 and 49, he incurs certain penalties, while the Ordinance which exempted the person concerned from these penalties came into operation on the 29th May 1950. There is, therefore, a two months' period in which a person not being on the Register and continuing to practise or holding office was liable to certain penalties. What is the position with regard to these persons ? I think my friend Mr. Kamath, if he had read clearly the terms of the amendment proposed in the bill itself, he would have seen that the provisions say that :

"In sub-section (3) of section 46 and sub-section (1) of section 49 of the said Act, for the words ' two years ' the words ' three years ' shall be substituted and shall be deemed always to have been substituted. "

Therefore, it is clear that that point has been adequately covered by the present clause.

**Shri Kamath :** My point was that if during these two months, from March 29th to May 29, if a dentist had not been registered, then under the Act, and because the Ordinance had not come into force, how could mere executive instruction from the Government prevent a prosecution, or some other penalty being imposed on that dentist?

**Dr. Ambedkar :** I quite agree that that could not have prevented prosecution. But fortunately no such case happened and it cannot happen now because the period is carried back to the original Act.

**Shri Kamath :** But then, Sir.....

**Mr. Speaker :** Order, order. The point is very clear.

**Dr. Ambedkar :** My friend Mr. Kamath in dealing with the reasons as to why this Bill was brought in, has made, if I may say so, certain very serious allegations. The contention on behalf of the Government is that this Bill has become necessary by reason of the fact that the States which were required to carry out the provisions of preparing the list have not been able to do so.

My friend suggests that there is another reason, and that reason is that there are certain British dentists working in this country who do not propose to become domiciled and get themselves registered, and that this Bill is intended to benefit them. Now, I first of all do not understand how an extension of one year is going to benefit a British dentist working here who has no intention of becoming a domicile of this country. I cannot understand it, But if my friend persists in making that suggestion, which I think is a very serious allegation against an hon. Member of Government, then it should be his duty when that Member returns, to specifically put the question and ask her reply, whether this was the real motive in bringing forward this particular Bill. I am unable to give any categorical answer; but I may say that I find it extremely difficult to believe that an hon. Member of Government should venture to bring forth such a Bill for no other purpose except the paltry purpose of benefiting one or two European dentists now in this country. It seems to me a most extravagant allegation.

**Shri Kamath** : I did not say it is the only purpose, it may be one of the purposes.

**Mr. Speaker**: But still, the suggestion is very uncharitable.

**Dr. Ambedkar** : On that point also I would like to point out to him, in answer to a question that he asked, namely, to state the present position, that all the States, who were written to in order to find out how much time they would find it necessary to prepare the Register, have replied that they would require not less than one year. And the Bombay Government which may be given the credit of having a more efficient administrative machinery than others, insisted that they should have two years. I think that in itself would suffice to dismiss the suggestion made by my friend Mr. Kamath that this Bill was intended to protect some Britishers in this country.

I do not think that there is any point which has been raised to which I have not adverted in the course of my reply. The Bill, as it is, is a very simple, non-controversial one. It has arisen not because of the fault of the Central Government but because of the other burdens carried on by the Provincial Governments, they could not find the time to bring a particular provision of the Act into operation. I do not know whether we can do nothing else except to help the Provincial Governments to give effect to this piece of legislation and bring the Dentists Act into operation as early as possible.

**Mr. Speaker** : The question is :

"That the Bill to amend the Dentists Act, 1948, be taken into consideration. "

The motion was adopted. Clause 2 was added to the Bill.

Clause 3 (*Amendment of section 46 and section 49, Act XVI of 1948*)

**Shri Kamath :** I beg to move :

" In clause 3, in the proposed amendment to sub-section (3) of section 46 and sub-section (1) of section 49 of the Dentists Act, 1948, for 'three years', substitute 'two years and six months'."

The present clause has been inserted so as to enable State Governments to complete their registers of dentists under sections 46 and 49 of the Act. This is a retroactive piece of legislation in as much as the words used in the clause are "and shall be deemed always to have been substituted. " I for one cannot see why for registering a few hundred dentists such a long period is necessary. I do not know how many dentists there are in all the States.....

**Dr. Ambedkar :** This is a matter of opinion. My friend Mr. Kamath with his abundant energy and administrative experience no doubt thinks that six months would be more than enough for completing the register. That as I just now told the House, even a Government as efficient as the Government of Bombay asked for two years. I personally myself think that in view of the fact that the obligation of preparing the register rests upon the Provincial Governments, it is desirable that this House should follow what the Provincial Governments think is feasible in this matter. As a matter of fact we have curtailed the period to one year instead of the two years asked for by the Bombay Government. We have stuck to one year, which was the original proposal by the Government of Madras. I do not think it is possible for us with safety to curtail the period provided in this Bill.

**Shri Kamath:** I take it that the Hon. Minister has no figures with him.

**Dr. Ambedkar :** No figures.

**Mr. Speaker :** If the registers are incomplete, how can he give the correct figures ?

**Dr. Ambedkar :** There is no register and who knows who is a dentist and who not.

**Mr. Speaker :** The question is:

" In clause 3, in the proposed amendment to sub-section (3) of section 46 and sub-section (1) of section 49 of the Dentists Act, 1948, for ' three years ', substitute ' two years and six months '."

The motion was negatived.

**Dr. Ambedkar :** As my friend Mr. Sidhva, has said this amendment affects an important principle which underlies the provisions of this clause, namely that the registers should be operative on the same date throughout India. This is not a mere matter of academic interest....

**Shri Sidhva :** Is it laid down in the Act?

**Dr. Ambedkar :** That is why we have said three or two years throughout.

Otherwise we would have prescribed different dates for different States. It is necessary and desirable to preserve the principle of uniformity. The House will see that it affects eligibility for holding posts. It cannot be said that a person is eligible for holding a post in a particular State and not eligible in another State, simply because the State has not been in a position to prepare the register. Therefore, I think as it is desirable to preserve the principle I cannot accept the amendment of Mr. Sidhva. After all the difference is only a matter of six months.

**Shri Sidhva** : I beg leave to withdraw my amendment. The amendment was, by leave, withdrawn.

**Mr. Speaker** : The question is :

" That clause 3 stand part of the Bill. " The motion was adopted.

Clause 3 was added to the Bill.

**Clause 4** (Amendment of the Schedule, Act XVI of 1948)

(Mr. DEPUTY SPEAKER *in the Chair*)

**Shri Tyagi** (Uttar Pradesh) : My amendment reads as follows :

In clause 4, for the proposed item (2A) of Part I of the Schedule to the Dentists Act, 1948, substitute :

" (2A) Any other institution imparting education or giving practical training in dentistry which the Central Government may in consultation with the Central Council of Dentists, recognise for this purpose and on such conditions as the Government may deem fit to prescribe therefor."

I wish to confess that Dr. Ambedkar is a hard nut to crack..... I don't want to make any aspersions on the institution. I don't know what its standard is, I have no personal knowledge of it, and therefore I don't want to damage the reputation of the institution. But as an enquiry is going on, I think that instead of committing the whole Parliament to recognising that institution, it is better that the Government had reserved the right in their own hands to decide....

**Dr. Ambedkar** : We are not affecting the institution in any way. We are dealing with the degrees granted by that institution in 1940—eight years ago.

**Shri Tyagi** : Dr. Ambedkar expects me to believe that the degrees of an institution may be recognised without the institution itself being recognised. The degrees of the Calcutta University granted in such-and-such a year may be recognised for purposes of the I.C.S. or I.A.S., but that does not mean that the Calcutta University is recognised ! What an argument ! Here I am giving him more powers. What I am suggesting is that he may even recognise that institution. I want Government to have powers to recognise any institution.....

**Dr. Ambedkar** : That powers exist in section 10(2).

**Mr. Deputy Speaker :** May I know the reaction of the Hon. Minister to this amendment ?

**Dr. Ambedkar :** This clause is a clause which really gives effect to the suggestion made by the West Bengal Government. Personally I myself feel, however much sympathy I may have with my friend Mr. Bhargava, it involves the question of the assessment of the qualification of the dentist as distinguished from a person who makes a denture. I thought he was rather eloquent on the man who makes a denture. A person may make a denture without being a dentist. We are talking of a dentist, which is a very different profession.

**Pandit Thakur Das Bhargava :** But he has got a degree of L.D.Sc.

**Dr. Ambedkar :** The point is this. When the Act was passed, this institution was not deemed to be worthy of recognition. Subsequently there has been a considerable degree of agitation and the West Bengal Government decided to examine the position as to whether any of the persons qualified by tuition in this college were worthy of recognition. They came to the conclusion that before 1940 the standard observed by this institution was something which could be considered for the purpose of recognition. But there again they said that although there was a standard maintained it was also known that many boys merely attended and filled in certain terms without learning anything. Therefore, the two additional qualifications were introduced that he should not only have obtained his diploma before 1940 but in the course of being a student in that college he should have filled in certain terms. It is to make the qualification a real one, worth of recognition, that these limitation were put in. I am personally prepared to place myself in the hands of the West Bengal Government who know the matter better, rather than substitute my own judgement, however great sympathy I may feel with the dentist themselves.

**Mr. Deputy Speaker :** Does the hon. Member want me to put his amendment to the House ?

**Pandit Thakur Das Bhargava ;** Yes, Sir, it may be put to the House.

**Mr. Deputy Speaker :** Amendment moved :

**Dr. Ambedkar :** I explained the position to you some time ago. The provision in Section 10(2) says 'where the institution grants a qualification'— but we are dealing with qualifications that have already been granted. The word there is 'grant', but here it is different. Therefore, this has to be dealt with by statute.

**Mr. Deputy Speaker :** I shall now put the amendment to vote.

The question is :

" In clause 4, in the proposed item (2A) of Part I of the Schedule to the



Dentists Act, 1948 omit all the words occurring after ' March, 1940 '."

The motion of Pandit Bhargava was negated.

**Mr. Deputy Speaker** : The question is : " That clause 4 stand part of the Bill "

The motion was adopted. Clause 4 was added to the Bill. Clauses 5 to 7 were added to the Bill. Clause I was added to the Bill. The Title and the Enacting Formula were added to the Bill.

**Dr. Ambedkar** : I beg to move : " That the Bill be passed. "

**Mr. Deputy Speaker** : The question is : "That the Bill be passed."

The motion was adopted.

## 2

### **RESOLUTION RE : MAKING OF LAWS BY PARLIAMENT WITH RESPECT TO CERTAIN MATTERS IN STATE LIST FOR ONE YEAR.**

**Mr. Speaker** : The point, as I have understood it, seems to be-apart from the words ' particularly '—that the President has got the power to make adaptations only with reference to the provisions of the Government of India Act, 1935. Perhaps the Law Minister may like to say something on this.

**The Minister of Law (Dr. Ambedkar)** : The wording of the article is that " the President may, for the purpose of removing any difficulties, particularly.....etc." "Particularly" does not mean that he has not got the general power.

**Mr. Speaker** : As I have understood the point of order of the hon. Member, apart from the words " any difficulties " and " Particularly ", he seems to construct article 392 as empowering the President to make adaptations only for purposes of transition from the provisions of the Government of India Act to the provisions of the Constitution. That is substantially the point.

**Dr. Ambedkar** : That cannot be because it is a wrong construction. The point raised by my hon. friend is that under article 392 the only power which the President possesses is confined to an adaptation of any section of the Government of India Act, 1935, so as to bring it in line with the provisions of the Constitution. My submission is that that is not correct, because the opening words in article 392 are quite general, namely. " The President may, for the purpose of removing any difficulties " and then " Particularly etc. " comes in.

Suppose you were to drop the words " particularly in relation to the transition from the provision of the Government of India Act, 1935, to the provisions of this Constitution " the wording would, " The President may, for the purpose of removing any difficulties, by order direct.... etc".

**Shri Meeran** (Madras) ; May I say something with regard to this point ? If

you remove the words " particularly in relation to the transition from the provisions of the Government of India Act, 1935 " it would read " The President may, for the purpose of removing any difficulties *to the provisions of this Constitution*, by order direct....etc." "Particularly " is something like an instance and it is a smaller provision. The wider provision is the giving of powers to remove any difficulties to the provisions of this Constitution.

**Mr. Speaker :** I would just seek clarification on one or two points which may dispose of the matter, without entering into the niceties of interpretation. Am I right in my interpretation that the Constituent Assembly of India (Legislative) was functioning as a result of the Adaptation of the Government of India Act ?

**Dr. Ambedkar:** Yes, the Independence Act was an amendment of the Government of India Act, 1935.

### 3

#### ADMINISTRATION OF EVACUEE PROPERTY (AMENDMENT) BILL

**The Minister of Law (Dr. Ambedkar):** At the outset I would like to say that the point which has been raised, namely, whether the Parliament can by law repeal a State law in the concurrent field, seems to me to have been raised at a very late stage. This Parliament has passed, I am sure, very many laws which contain a provision whereby Parliament has specifically repealed a State law in the concurrent field. My friend Mr. Jain referred to one of them, which is the last one which Parliament has passed, namely, the Merged States Act (Act LIX of 1949). If my friends interested in this subject were to refer to the provisions of this particular law, they will find that there are very many laws which fall into the concurrent field and which were enacted by the states which have been repealed by this particular Act. Therefore, so far as practice is concerned, I do not think there is anything novel in the proposal introduced in this Bill. Of course, it might be contended that this practice is not in keeping with the provisions of the Constitution and that it has no warrant in the Constitution. I think that this practice is perfectly in consonance with the Constitution.

My hon. Friend Mr. Ananthasayanam Ayyangar has very rightly referred to the proviso to sub-clause (2). The importance of this proviso, in my judgement, lies in this, namely, that it is possible and open to Parliament to make a law not only amending, varying, or adding to any law made by the State in the concurrent field, but it has also the power to *repeal* that law. I think this is quite clear from the proviso. So far as this proviso is concerned, the power is specific that Parliament -can repeal a law made by the State in the concurrent field. But my hon. Friend Mr. Ananthasayanam Ayyangar's

point was that this proviso is related only to sub-clause (2). Now I think that if he will apply his mind to the necessities mentioned in sub-clause (2) he will find why the Constitution thought it enough to attach the proviso to sub-clause (2) and did not feel it necessary to extend it to sub-clause (1). As my friends will see, sub-clause (2) of article 254 refers to a law, which—if my friends will allow me—I would call as a 'protected law', that is to say, a law which is not only passed by the State Legislature but a law which was reserved for the consent of the President and to which the President has given his consent. That is the law which is referred to in sub-clause (2). Now, it was felt that it might be argued that in the case of a law which, though passed by a State Legislature relating to the concurrent field, nonetheless was reserved for the consent of the President and to which the President had given his consent—obviously on the advice of the Central Government which represents the wishes of Parliament—the Central Government may be deemed, I am putting the argument, to be 'estopped' from doing any further thing by way of injuring that particular Act either through amendment or otherwise. It was to eliminate this kind of argument that once the law having been protected the Central Government—to use the term in the Evidence Act—was estopped, so to say, from taking any further action that the proviso was introduced. It was felt not necessary to extend this proviso to sub-clause (1) because the expression 'to make a law' is itself so wide that it could cover even the repealing of a law.

What does 'making of a law' mean? The making of a law, in ordinary terms, means: to enact an enactment where none exists; or, where an enactment exists, to add to it, to vary it, to amend it, or to repeal it. All that is covered in the broad phrase 'making a law'. Therefore, as making a law included making a law repealing an earlier Act or creating another Act, it was felt that such a provision as contained in the proviso was unnecessary in respect of sub-clause (1) of article 254. Therefore, article 254 carries the general implication involved in the phrase 'making of the law' which includes repeal of the law. As sub-clause (2) of article 254 was felt not to carry that implication,—because of its protected character,—the proviso was added to it. Therefore, my submission is that there is nothing unconstitutional in Parliament making a law repealing a law made by the State Legislature in the concurrent field.

With regard to the other point whether you can make a general omnibus law repealing certain laws, it seems to me that there again there is nothing improper in that. What are we doing by having this omnibus law? What we could have done was to have hundreds of Acts, each one dealing with a specific law, saying that we repeal this Act; another Act saying that we repeal

that; and a third Act saying that we repeal a third one. Instead of doing this kind of thing, we did it in a collective manner.

**Shri M. A. Ayyangar:** You could have added a schedule here.

**Dr. Ambedkar:** That also might have been done. There are various ways of doing it. I do not deny that some ways, in some cases, may be better than others, but so far as the general principle involved in the Bill is concerned, I do not think that there is anything unconstitutional or contrary to the practice of the Draftsman. My friends will see that I have, for instance, introduced a Bill called the ' Part B states Bill ' in the present session, to which there is a schedule attached. Every one of the Acts is mentioned there. The reason is, as I will explain when the matter comes up, that certain laws could not be applied without certain adaptation. Therefore, a schedule had to be introduced that this law shall become operative subject to this adaptation. There are certain others such as Cooch-Bihar where no such schedule exists, because adaptation requirements are not necessary. That might come up today or tomorrow. We, therefore, have a general clause and I do not think that there is anything unconstitutional or improper in the sub-section which is contained in my hon. Friend's Bill.

**Mr. Speaker :** As I said I was not present in the House yesterday, but I have read the proceedings..... Does the Hon. the Law Minister wish to say anything further? I do not think it is necessary now.

**Dr. Ambedkar :** I have already made the position clear, Sir.

**Mr. Speaker:** Then I will put the amendment to the House.

The question is:

" In clause 2 in sub-section (2) of the proposed section 58 of the Administration of Evacuee Property Act, 1950, for the words " corresponding to this Act ", substitute the words, brackets and figures "which corresponds to this Act and which is not repealed by subsection (1)".

The motion was adopted.

#### 4

### QUALIFICATIONS FOR ELECTIONS TO PARLIAMENT AND LEGISLATURE OF STATES

**Shri Sarwate** (Madhya Bharat): Before you proceed further with the amendments would you not like, Sir, to call upon Dr. Ambedkar and enquire whether he would like to make any statement on the suggestion which Prof. K. T. Shah has made?

**Mr. Speaker:** I do not think it was necessary for me to call upon him. If he had tried to catch my eye, certainly I would have called him.

**The Minister of Law (Dr. Ambedkar):** I do not want my friend Prof. K. T. Shah to feel that I have not sufficient respect for him by not speaking on his motion and if you will, Sir, permit me at this stage I would like to say a few words.

Mr. Speaker, I must confess that when I got the text of the Resolution moved by Prof. Shah I was considerably puzzled, because I felt that in a Resolution of this sort there should not merely be words indicating to Government that there exists in the Constitution a certain article which permitted them to legislate on it but should have also included in it specific suggestions as to what the Government should do in a legislation of this sort. As I said, I was considerably puzzled and therefore it was very difficult for me to come to any definite conclusion as to the attitude I should adopt with regard to this Resolution. I now see that the object of Prof. Shah in framing the Resolution in the terms in which he has framed it was really deliberate. He wanted the House to give him some idea as to what should be incorporated in a legislation under sub-clause (c) of the relevant article in the Constitution. Well, I have no objection to a procedure of this sort but I should have thought that if Prof. Shah was so keen as he appeared to be for a legislation of this sort, he should not have had an empty mind without any kind of a suggestion of his own. However, I suppose those who have supported his resolution have correctly interpreted his mind and taking into account the various speeches that have been made in support of Prof. Shah's Resolution, it appears that many Members who are keen about adding some qualification other than those mentioned in the Constitution have in their mind some kind of an educational qualification. But none of them has been very precise: none of them has given me any idea as to what is the standard of education that they would like to prescribe in order that the candidate may become lawfully entitled to stand.

Now it seems to me that education can hardly be the sole qualification for membership of this House. If I may use the words of Buddha, he said that man requires two things. One is *Gyan* and the other is *Shed*. *Gyan* without *Sheet* is very dangerous: it must be accompanied by *Sheel*, by which we mean character, moral courage, ability to be independent of any kind of temptation, truthful to one's ideals. I did not find any reference to the second qualification in the speeches I have heard from Members who have supported Prof. Shah, But even though I myself am very keen to see that no Member enters this August Assembly, who does not possess *Sheel* in adequate degree, I find it extremely difficult to find any means or methods to ensure that valuable qualification.

Coming to the question of education, I do not wish to be understood that I

regard ignorance to be a virtue: let that be quite clear. I regard education to be a very necessary qualification for possessing that degree of competence which is very necessary for the performance of one's duty. In this House there are people who, although they are not educated, are very competent to voice the grievances of the class whom they represent. I am sure about it. A more educated person would not be able to discharge that function, because he does not know and does not have that experience. But my friends who come from these classes and with whom I have naturally very great sympathy do not realise that what is more necessary for bringing relief to the class of people whom they represent is not merely making speeches in this House but to suggest remedies for the removal of their grievances. To make speeches and to ventilate grievances is a very easy matter but to formulate remedies is a very difficult matter. It requires education and therefore education even from the standpoint of the backward classes, scheduled classes or tribal areas is a very necessary ingredient. How can we ensure it ? When I examined the suggestion that there ought to be some kind of educational qualification, I found that a proposition which is very good in theory or in its academic aspect cannot be given effect to without producing other evils. That is my difficulty. Where will you fix the standard? Will you say that only B.As. should be qualified to be Members of this House ? Supposing you do that, what is the result ? Members probably might know that there are many people who are educationally and intellectually far more competent than any graduate, although they have never been inside any college or university. There are any number of them. Are you going to shut out these people who have privately educated themselves, who are equally competent or better than B.As. or M.As., merely because they have not been able to obtain a certificate from a university ? I think that would be a very unfortunate result.

Take another consequence. In this country education is in the lowest grade. Not only that is so but for some reason which all of us know, education has not been universally spread among all the communities in this country. There are communities which are highly educated and there are communities where education is very, very low. Supposing you make B.A. or even matriculation as a standard, are you not making the membership of this House to be a monopoly of the few ? I fear that will be the consequence, Supposing you lower down your standard, say, for instance, to the fourth standard, to the study of the three Rs. or to literacy in order that no community may be excluded from the opportunity of sending its members to this House. Is That qualification any good? It is of no value at all.

Therefore, my submission is this, that it is a good thing. I am not going to outcry the feeling that there ought to be some education in Members who

come to represent their various constituencies in this House. But I just cannot see how you can give legal effect to it. Therefore, my suggestion is that this is a matter which had better be left to the people themselves, or to the political parties who will run the Government. I have no doubt about it that if the political parties, for their own particular purposes, do not attend to this matter, people themselves in course of time will attend to it. People are not going to allow persons who cannot discharge their functions properly in this House to be continued and returned for ever. They want results, They want their welfare to be attended to, and I am sure about it that they will realise that the only instrumentality through which they can achieve this purpose is to send good men to this House. Therefore, I think the proper course is to leave the matter to the people.

Now, Sir, my friend Prof. K. T. Shah in a somewhat desperate mood said that he knew the fate of this Resolution. That was because not that his Resolution was bad on merits but because he was the Mover of it. I like to assure my friend Prof. K. T. Shah that I have no such personal prejudice against him, and certainly I am not the man to reject a Resolution moved by a person because I happened to disagree with him or happened to dislike him. There are many people in this House who have personal prejudices—probably personal antagonisms—between themselves, but I am sure about it that no Member is going to allow these prejudices to stand in the way of doing the work which this House is always engaged in doing. Therefore, I hope that he will not carry such views in his heart when he finds me opposing his Resolution.

Sir, I do not think that any purpose would be served by forming a Committee because, as I find, nothing workable has emerged from the debate. If I had found that any concrete suggestion had emerged *from* the debate which it was possible to give effect to in terms of law, I certainly would not have hesitated to accept that recommendation. My friend Prof. K. T. Shah said that he did not despair at this stage of finding a formula which he might give legal effect to. I was waiting to hear from him further some concrete suggestion and the method by which he would give it a legal form, but he abruptly ended by saying that he did not despair of it, without throwing any light as to how the matter could be dealt with. Of course, this matter I know will be agitated on the Motion which I hope I shall be able to make during this session for the consideration of the People's Representation Bill, because it is there that this matter is being specifically put before the House, namely, the qualifications and disqualifications. And no matter what the desire of my friend Dr. Panjabrao Deshmukh may be, nothing can take away the liberty of the House to reagitate this question in the form of an amendment when the Bill comes.

For the moment, I am afraid I cannot accept this Resolution.

**Mr. Speaker :** I was just placing before the House the amendments.

**Shri Kamath** (Madhya Pradesh): Sir, as the question is coming up before the House later in the Session, I beg leave to withdraw my amendment. The amendment was, by leave, withdrawn.

**Mr. Speaker:** Then there is an amendment moved by Shri S. N. Mishra. The question is:

That before the word "qualifications" the words "minimum educational " be inserted.

The motion was negatived.

**Mr. Speaker;** Then as regards the Resolution. The question is:

"This House is do opinion that qualifications be laid down for membership of Parliament and Legislatures of States in the Union of India and that necessary steps be taken forthwith to give effect to them before the next election. "

The motion was negatived.

## 5

### COOCH-BEHAR (ASSIMILATION OF LAWS) BILL

**The Minister of Law (Dr. Ambedkar):** I beg to move for leave to introduce a Bill to assimilate certain laws in force in Cooch-Bihar to the laws in force in the rest of West Bengal.

**Mr. Speaker:** The question is:

" That leave be granted to introduce a Bill to assimilate certain laws in force in Cooch-Bihar to the laws in force in the rest of West-Bengal. "

The motion was adopted.

**Dr. Ambedkar:** I introduce the Bill.

**The Minister of Law (Dr. Ambedkar) :** I beg to move : " That the Bill to assimilate certain laws in force in Cooch-Bihar to the laws in force in the rest of West Bengal, be taken into consideration. "

This is a very simple and short Bill, but having regard to the experience which we have had in the last whole week, I hope that I will be fortunate enough to get this Bill through before the House rises this evening.

Sir, the object of the Bill is to extend certain central laws relating to matters lying in List I and II to Cooch-Bihar. The Bill proposes to give the Central Government power to appoint a day by notification in the Gazette as to when these laws will come into operation. There is only one exception to these



laws, and that is with regard to the Muslim *shariat* law. With regard to that, power is given to the West Bengal Government to appoint the day so that on the day appointed by it the Muslim *shariat* law will come into operation. This Bill would have been unnecessary had Cooch-Bihar become a merged State before 1949, because the House will remember that by Act LIX of 1949 which was passed, I believe, in the December Session of the Assembly, the whole lot of Central laws were made applicable to all merged States, but unfortunately at that time Cooch-Bihar had not become a merged State. The order merging Cooch-Bihar in West Bengal was issued by the President some time in January 1950, with the result that this Supplementary Bill, so to say, became necessary. I do not think that there is any clause which requires any further explanation.

The motion of Dr. Ambedkar was adopted. Clauses 1 to 4, were added to the Bill. The Title and the Enacting Formula were added to the Bill.

**Dr. Ambedkar;** Sir, I move: " That the Bill be passed. "

**Mr. Chairman:** The question is: " That the Bill be passed. "

The motion was adopted.

## 6

### INDIAN TARIFF (FOURTH AMENDMENT) BILL

**The Minister of Law (Dr. Ambedkar) :** I am very much surprised that a point like this should have been raised by my hon. friend, Mr. Tyagi, who always in the House has said that he represents the most ignorant class in this country. It is a point which I think baffled many lawyers and I should have thought it was worthwhile for my friend to have left this matter in other hands. Now that the point is raised and you have expressed your own opinion that a point like this is important and must be decided, I propose to offer a few remarks on the subject. While I was listening to Mr. Tyagi's remarks, I thought he was confusing two different issues which must be kept quite separate. One is whether Parliament can delegate its authority. The second is whether Parliament should. The two are, in my judgement, quite different questions. We must apply very different considerations in coming to a conclusion on either one of them.

I will take the first question whether Parliament can delegate.

**Shri J. R. Kapoor** (Uttar Pradesh): That is the only question.

**Shri Tyagi: No.**

**Dr. Ambedkar:** No. On that subject, so far as I am concerned, I have not the least doubt that Parliament can delegate its authority to other agencies subject to one condition and that condition is this that Parliament does not by such delegation completely divest itself of the authority to resume back the

powers which it has delegated. A delegation for a purpose, a delegation for a time, and a delegation which permits Parliament to resume back their authority is really no delegation at all, and therefore, Parliament is quite competent to enact a measure which conforms to this particular test. I think I cannot do better than read from a judgement of the High Court of Australia which deals with this matter. I will, of course, later on specifically cite an authority on this very point raised by the Bill. The case is *Meakes Vs. Dignan*, 46 Commonwealth Law Reports, page 117. This is what Mr. Justice Evat says:

" The Statesmen and Lawyers concerned in the framing of the Australian Constitution, when they treated of ' legislative power ' in relation to the self-governing colonies, had in view an authority which over a limited area or subject-matter, resembled that of the British Parliament. Such authority always extended beyond the issue by Parliament itself of binding commands. Parliament could also authorise the issue of such commands by any person or authority which it chose to select or create. " Legislative power " connoted the power to deposit or delegate legislative power because this was implied in the idea of parliamentary sovereignty itself. It was of course always understood that the power of the delegate or depository could be withdrawn by the Parliament that had created it, and in this sense Parliament had to preserve ' its own capacity intact '."

I can read many passages: but I do not wish to trouble the House. In deciding the question whether Parliament can lawfully delegate, the test to be applied is this: whether Parliament has kept its capacity intact to withdraw the authority which it has deposited in somebody else. Therefore, the question that has to be considered so far as the first question is concerned, whether Parliament can delegate, is to examine the causes in order to find out whether the test that has been laid down is fulfilled or not, whether there is anything in this Bill which prevents Parliament from resuming that authority. That is one point.

Now, on this very question I am glad to say that there is a ruling of the Privy Council reported in House of Lords, Appeal Cases, Volume 10, on page 282. The case is exactly on a par with the present one. There, the legislature of one of the Commonwealth countries passed a law permitting the Governor, which of course means the Executive, to levy a customs duty on certain articles which were not mentioned in the schedule attached to the Customs Act, some new article or similar article.

**Shri Sondhi** (Punjab): Was it a fixed rate or a varying one? That is the only point.

**Mr. Speaker:** Let him proceed.

**Dr. Ambedkar:** No, that is not the point. Here, by this law, we are empowering the Executive to levy a customs duty on an article,—I am not concerned with the amount or its variability: an article which is not found in the schedule. That is the position. Here, the case is exactly on all fours. The Supreme Court of that country held that the law was *ultra vires* because it was a delegation. The Privy Council reversed the decision, and I shall read only one small passage from the judgement of the Privy Council on page 291. This is what the Privy Council said:

" It is argued that the tax in question has been imposed by the Governor and not by the legislature, who alone had the power to impose it. But the duties levied under the Order in Council are really levied by the authority of the Act under which the Order is issued. The Legislature has not parted with its perfect control over the Governor and has power at any moment to withdraw or alternate the power which they have entrusted to him. Under these circumstances, their Lordships are of opinion that the judgement of the Supreme Court was wrong in declaring section 133 of the Customs Regulation Act of 1879 to be beyond the power of the legislature."

**Pandit Balkrishna Sharma:** May I submit, Sir.....

**Mr. Speaker:** Let us hear him patiently. If there is anything to say, I shall hear the hon. Member.

**Dr. S. P. Mookerjee** (West Bengal): Which country is that?

**Dr. Ambedkar:** Some colony in Australia. If my hon. friend is anxious, I shall give it.

**Shri Tyagi:** It may be too small a country.

**Dr. Ambedkar:** The law is never small or big. Law is law. It is New South Wales.

Thus, so far as the first question is concerned, whether Parliament can delegate, my submission is this. So far as this condition is observed, namely that Parliament has kept within its hands the power to withdraw any such delegation, there can be no legal objection.

Before I proceed to the other point, I should like to say that I cannot see how this House is competent to decide that question. Surely, this is not a point of order. A point of order relates to rules of business. We are dealing here with the competency of the House. Supposing, Sir, this House or you decide that this was *ultra vires*, and notwithstanding that, Parliament proceeded to make the law, and the matter went to the Supreme Court, and the Supreme Court decided that the Act was *intra vires*, what a difficult situation would arise? Or supposing we proceed to deal with the point on the belief that it was *intra vires*, the matter went to the Supreme Court and the Supreme Court decided

that it was *ultra vires*, we would be creating a great difficulty for ourselves. What I would like to say is this. All this attempt to raise questions regarding competency is really an attempt to convert this Parliament into a court. It is not a court. It is much better that justiciable matters had better be left to the Supreme Court to decide and we proceed on our understanding that whatever we are doing is within the competence of Parliament. Therefore, my submission is that this is not a point of order at all and should not be treated as such.

Then, I come to the other question whether Parliament should delegate. That is a matter which is entirely within the competence of this House : entirely, I make no reservation whatsoever. If in certain circumstances Parliament thinks that it should not delegate, well, Parliament should insist that it will not delegate, and that the matter shall be dealt with by Parliament itself. In certain circumstances, such as an emergency and so on, when Parliament cannot meet, and when executive action must be speedy, Parliament will, no doubt, consider it, and it may be that circumstances are such that a certain amount of delegation may be permitted. Therefore, this Bill has to be considered from this point of view. The second question is whether we should or we should not delegate. My friend Mr. Tyagi referred to Campion and referred to the opinion given by Mr. Campion on the question of taxation. I have no doubt in my mind that that is the correct attitude which Parliament should adopt in the matter of taxation. The power to tax is a very important power. It is really the one and only power which Parliament possesses to control the Government and to order the Government; and if Parliament were to give its permanent power of raising revenue to the Executive, the Executive would not care two hoots for Parliament. It is, therefore, very desirable that Parliament should keep within its own hands this power. The British Parliament keeps the Executive under control, if I have understood it correctly, in two ways. They have certain important Acts which are only Annual Acts, for which they never have permanent Acts. For instance the Army Act in England is an Annual Act. Every year, the Executive has to come before Parliament in order to get that Act renewed; and if they do not renew it, the whole army will have to be disbanded, because there will be no law governing it. The other measure by which the British Parliament controls the Executive is by reserving for annual levy, certain taxes, for instance, income-tax which forms a very large part of the resources of the British Government, and also of our Government. Therefore, there can be no quarrel on the question that Parliament should be very chary, very tardy, of handing over powers of taxation to the executive. It is perfectly open to Mr. Tyagi to say that in this matter delegation should not be made, or some other view

may be taken. But so far as competency is concerned, I am afraid, he is out of court. After this matter was brought to our notice, I also came to the conclusion that, probably, from the point of view of financial propriety, from the point of view of maintaining the supremacy of Parliament, it was desirable to make some amendments in the clauses as they stood in the original Bill. I do not know whether I have got the thing with me now; but I am satisfied that there are two new provisions in the new amendments. One is this that the power to levy customs duty on articles not specified is only for a short period, up to the Budget Session, not indefinitely, for all times. Whenever the Budget Session comes, any customs duty levied by the Executive under this Bill will automatically lapse, and the matter will then be dealt with by Parliament, as Parliament deals with any other financial measure. I should have thought that that was a great improvement in the Bill as it stands, and Parliament should not have any quarrel about proposing a legislation of this sort.

**Pandit Thakur Das Bhargava:** .....After all this we must revert to our own Constitution to decide the point. As far as our Constitution is concerned this House is not competent to delegate any such authority to the Ministers.

**Dr. Ambedkar:** There is no bar; we have plenary powers.

**Shri Santhanam :** Will the hon. Member read article 286?

**Mr. Speaker:** Matters would be shortened if the hon. Member is allowed to proceed with his argument in his own way. Let us hear him first.

**Pandit Thakur Das Bhargava:** At this moment we need not be wedded to any theory. I am not wedded to any theory. I only place these facts for your consideration, so that you may consider them before coming to a final decision.....

## 7

### **SOCIETIES REGISTRATION (AMENDMENT) BILL**

**Shri Sidhva** (Madhya Pradesh): My Bill refers to amendment of the Societies Registration Act, 1860. This is a very simple Bill.

**The Minister of Law (Dr. Ambedkar) :** May I, with your permission, make a statement on the Bill, so that my friend Mr. Sidhva may be in a position to determine the course that he should follow?

Last time when the Bill was before the House I promised that I would enquire from the various States as to what they thought about Mr. Sidhva's measure and that I would communicate to Mr. Sidhva as well as to the House the replies received from the various States. Now the position is this.

So far as Part A States are concerned, they are desirous that the improvement suggested by Mr. Sidhva should be made, but they have made

this reservation that they would like to initiate legislation themselves. The Government of India, on a further consideration, do not think that, in view of the wishes expressed by the Governments of the Part A States, they should themselves undertake all-India legislation. They do not think that this is a matter of such character as to require common uniform legislation throughout India. They are prepared to leave the matter to the different States. So far as Governments are concerned, Part A States must be excluded from this Bill.

In regard to Part B States, they have no such law and consequently the Government of India did not consult them. The standing rule which the Government of India observe in the matter of initiating legislation falling within the Concurrent List is of a very longstanding character, namely, that they shall not undertake legislation without the consent of those States. Therefore, what remains for us to operate upon is States in Part C. Therefore, if Mr. Sidhva wishes to proceed with this Bill he must agree to confine this particular measure to Part C States. That is one limitation which I am afraid we shall have to insist upon.

Then, the other thing that I find is this, that Mr. Sidhva's Bill will require considerable amendment—almost every clause of the Bill requires amendment. As I said last time, I am myself in favour of the legislation and I do not wish to obstruct it in any way. In fact, I have here before me drafted such amendments as I think are necessary to make in this Bill. I am quite prepared to pass on those amendments to Mr. Sidhva so that he may himself move them and take the credit for initiating this legislation.

Therefore, my suggestion to Mr. Sidhva was this that he might move for the postponement of the consideration of the Bill to the next session, have these amendments from me, give notice of the amendments himself, and, next time when the Bill comes up, move them. And I promise that I shall accept the amendments that I myself am suggesting, if that course is agreeable to him.

**Shri Tyagi** (Uttar Pradesh) : It is not a very great promise.

**Dr. Ambedkar:** As I said, I am committing myself to the acceptance of these amendments, so that the Bill may not have the defects which we certainly find it is full of now. It is for Mr. Sidhva to decide what course he would follow. I thought I might help him by this statement.

**Shri Sidhva :** I was glad to hear the statement of my Hon. friend the Law Minister. What I was suggesting was that my Bill was a very simple Bill, namely, an addition to Section 4 of the Societies Registration Act. As the Law Minister has rightly stated, the Part A States have sent their opinions favouring the adoption of my Bill, but they said that they would themselves like to initiate in making the legislation. .... I hope that Dr. Ambedkar would be good enough to accept my suggestion. We do not want to wait any longer

to see that the fraudulent procedure that is being practised by various societies is continued. Now that the Hon. Law Minister has accepted the provisions of the Bill, there is no difficulty. The question is only of time and I hope the Law Minister will accept my suggestion.

I therefore beg to move:

" That the Bill further to amend the Societies Registration Act, 1860, be taken into consideration."

**Dr. Ambedkar:** I am sorry. I think my hon. friend Mr. Sidhva has misunderstood me. He is probably under the impression that while accepting his Bill as it stands, I am seeking to amend some other provisions of the original Act. That is not so. I am amending his amendments because I find it impossible to accept the Bill as drafted by him without the amendments that I am suggesting. Therefore, as I said, I have not the least objection for the Bill going through provided the amendments I am suggesting are made in the Bill of Mr. Sidhva. Here are the amendments I am prepared to hand over the papers to Mr. Sidhva, but of course, there has been no notice of these amendments and I do not know what view the House will take, but as I said, he can take the amendments, give notice of them and have the matter discussed.

**Mr. Speaker :** I was just thinking as to whether—I am not clear yet—whether we could get a priority in respect of this Bill on the assumption that the consideration motion is moved and then have the further consideration postponed.

**Dr. Ambedkar:** That may be done.

**Mr. Speaker:** Perhaps he will be coming in ballot. The only difficulty is that he loses the priority.

**Dr. Ambedkar:** If I may say so, the Bill is very small and I am speaking without the authority from Government, but I do not think it would be difficult for me to persuade Government to give, for instance, whole day to Mr. Sidhva from one of the Government days in the next Budget Session.

**Mr. Speaker:** There is another alternative to it also; supposing instead of taking it now, we postpone the consideration of this Bill say, at five minutes to five, and we may then take up the Bill and leave it as part-heard, so that it may take care of itself.

**An Hon. Member:** Dr. Ambedkar will accommodate Mr. Sidhva on a Government day.

**Dr. Ambedkar :** I can arrange that.

**The Minister of Law (Dr. Ambedkar) :** I beg to move for leave to introduce a Bill to amend the Representation of the People Act, 1950.

**Mr. Speaker:** The question is :

" That leave be granted to introduce a Bill to amend the Representation of the People Act, 1950. "

The motion was adopted.

**The Minister of Law (Dr. Ambedkar) : I beg to move :**

" That the Bill to amend the Representation of the People Act, 1950, be taken into consideration."

This bill has two objectives. One is to provide for the representation of Part C States in the Council of States. The second is to enact the provisions made by the Representation of the People (Amendment) Ordinance, 1950. I propose, first to deal with the first objective of the Bill, namely, to provide for the representation of Part C States, hon. Members will remember that under article 80, clause (5) this matter is left to be dealt with and determined by Parliament by law. There is no provision in the Constitution itself as to how Part C States should be represented in the Upper Chamber. As I said the matter is left to the discretion of Parliament to deal with it by such law as Parliament may deem fit. It is because of this obligation which has been cast upon Parliament that the present Bill has been brought forth. In dealing with this particular matter, it is obvious that three questions have to be dealt with. The first is the nature of the electorate. What is to be the electorate which is to represent or elect the representatives of Part C States in the Upper Chamber at the Centre? The second is the distribution of the seats which have been assigned to Part C States by the Fourth Schedule of the Constitution. And thirdly we have to consider the method of representation, whether they should be elected, by election, by nomination or by some other method.

Now, the first question, namely the question of the electorate is dealt with in clause 9 of the Bill and it is to that clause that I propose first to draw the attention of the House. In considering this question, the question of the electorate, the House will remember that the Constitution has laid down the general principle for the composition of the Upper Chamber. That principle will be found in article 80, clause (4). That clause says though it is confined to the representation of Part A and Part B States, that the representation to the Upper Chamber shall be by indirect election by Members of the Legislatures in Part A and Part B States. That being so, in devising a method for securing representation to Part C States in the Upper Chamber, it is necessary and obligatory to follow that principle namely, that the representation shall be by the indirect method. Now, in following this method, there is one difficulty that



stands up at the outset.

So far as Part A and Part B States are concerned, the electorate already exists, namely, the Assemblies in the 12 MOON various Part A and Part B States. With regard to Part C States, there are no such Assemblies in existence and one does not know when Parliament will undertake any kind of Legislation to provide a more popular method of administering Part C States. Consequently, we must proceed upon the hypothesis that no Legislative bodies exist in Part C States, nor are they likely to come into being by the time the elections take place. The question, therefore, is what should be the nature of the electorate. Obviously, the only other method that comes to one's mind is to resort to the existing local bodies in all Part C States, such as municipal committees, town committees, village *panchayats* and so on and so forth, and to permit members of these local bodies to be registered as voters. It was, however, found that probably this method of election may not provide a sufficiently large constituency. We have no idea as to how many municipal committees, town committees and village *panchayats* may be existing in various Part C States. It may be that in some Part C States there may be a plethora of them, and it may be that in some other Part C States there may be a great paucity of them. Consequently, in order to create a solid electorate, it is felt that in addition to the membership of these local bodies, it would be desirable if the franchise was extended to persons who have undergone some University examination. Therefore, in addition to membership to the local bodies, it is proposed, in this bill that matriculates or persons holding other equivalent qualifications may also be permitted to be registered as voters, provided they have the necessary qualification on the qualifying date, and have put in the necessary period of residence during the qualifying period. That is the general provision contained in clause 9 which seeks to introduce after section 25 of the original Act, new sections 25A, 25B, 25C and 25D. This is the nature of the electorate that this Bill proposes to bring into existence for the purpose of electing representatives to Part C States in the Upper Chamber.

I will take up the other two questions which I said, necessarily require consideration. The second question is nomination *versus* election. This matter is dealt with in clause 4 of the Bill. In this connection, it is felt that so far as the two States of Manipur and Tripura are concerned, election will not be possible, for the simple reason that so far as these two States are concerned, there are hardly any local authorities existing there. Therefore, the basis of the general proposal which is introduced by clause 9 does not exist at all so far as these two States are concerned. Tripura is really a tribal area. Manipur is a very backward area. There are hardly any of these local bodies and

organisations. The educational status of these two States is also very backward. Consequently, it is not hoped that even if the educational qualification was introduced, it would be possible to obtain a sufficiently large electorate to permit of elections being introduced in the representation of these two States. Consequently it is felt that the only course left is to secure the representation of these two States by nomination by the President and it is proposed that their nomination should alternate at the end of a two year period—once a representative of Manipur would be nominated by the President for the first two years and in the second two year period a representative of Tripura would be nominated. In the rest of Part C States the representation would be by election.

A further question, as I said, arises, namely the distribution of the seats. The House will remember or it can see by reference to Schedule IV that that Schedule in three cases has given one seat to two States. Those three cases are Manipur and Tripura, Himachal Pradesh and Bilaspur, which together have one seat and Ajmer and Coorg have together one seat.

There are two methods for regulating the representation of these states which have one seat jointly between them. One is to treat them as one constituency and the other is to treat them as two different constituencies and give them alternate representation. The case of Manipur and Tripura has already been disposed of, because the question of election does not arise there. That is a case which is governed by nomination. With regard to Ajmer and Coorg it is proposed that they should be represented by election separately in rotation—once the seat should be filled by election in Ajmer and the second time it should be filled by representation from Coorg. With regard to Himachal Pradesh and Bilaspur it is proposed that the two States should be treated as one constituency and they should in a joint election elect one representative.

The House will no doubt say that we have given one treatment to Ajmer and Coorg and a different treatment to Himachal Pradesh and Bilaspur. The argument is apparently correct. But I do not see how it is possible to treat these two series of States on a common footing. It will be realised that Ajmer and Coorg are not territorially contiguous. It will also be realised that their cultural outlook, their mode and manner of life, their economic problems are altogether different and distinct. It can hardly be said that a representative of Ajmer could very well represent the problems and difficulties of the people of Coorg or *vice versa*. But with regard to Himachal Pradesh and Bilaspur the two are contiguous : in fact it is only by some accident, which I am unable for the moment to understand or to explain, that the States Ministry decided to keep the two in two distinct watertight compartments. I should have thought

that the two could have been amalgamated into one. I have no doubt that that will happen: perhaps it may happen long before the election takes place. Therefore I do not see any justification why the principle of divisive constituency, which has been adopted in the case of Ajmer and Coorg for the circumstances which I have mentioned, must necessarily logically and as a matter of categorical imperative apply to Himachal Pradesh and Bilaspur.

Therefore, what is proposed is that Manipur and Tripura would have separate electorates but their representation would be regulated by nomination by the President for a period of two years in rotation. With regard to Himachal Pradesh and Bilaspur they would form one constituency and in a joint election elect one representative. With regard to Ajmer and Coorg the provision is that for a period of two years Ajmer will enjoy the seat reserved for two and subsequently Coorg will enjoy the seat which is reserved for both.

Those are the provisions which we have made in the Bill with regard to the representation of Part C States. As I said at the outset, this Bill had a double objective. One was to make provision for the representation of Part C States in the Upper Chamber. The second objective was to give the effect of law to the provisions contained in the Ordinance.

I will briefly explain to the House why it became necessary for Government to issue this Ordinance. As the House will remember, at one time Government felt that elections could be held in the months of April and May and they were very keen about it and wanted to do everything possible to give effect to that intention. On the examination of the circumstances, as I then said, it was found that in certain areas electoral rolls were not ready and in certain areas constituencies had not been delimited. If we had allowed the original provisions contained in the People's Representation Act 1950 what would have been the position? The position would have been this. Under the Original Act the Election Commissioner is bound to publish preliminary electoral rolls—<sup>1</sup> am using the words " preliminary electoral rolls " constituency-wise. That was the first step in the process of election. After that was done two or three processes had to be undergone. One was the inviting of claims and objections, the second was to have the claims and representations dealt with by some authority judicial or otherwise and to have them disposed of: and thirdly, to enter all the corrections consequent upon the decision of the revising authority into the electoral rolls and then to publish them finally.

Speaking for the moment and taking into consideration the time that would have been necessary to go through these processes, the position would have been this. After the constituencies were delimited, certainly three weeks or one month ought to be given to the electors to make their claims and

objections. You could not fairly give less than that time. Thereafter, at least two months would be necessary for the revising authority, I am giving a very conservative estimate, two months would be necessary for the revising authority to dispose of claims and objections. That means three months. Add one more month for revising the electoral rolls in the light of the decision of the revising authority. That means four months. Assuming that the preliminary electoral rolls were prepared by the end of this month, which I don't think is a very sanguine hope—but supposing that was so—it is quite obvious that following the principles embodied in the original People's Representation Act, the final electoral rolls could not have been published even by the end of April or May. That meant that if we had followed literally the provisions contained in the original Act, the elections could not have taken place in the month of April and May. As Government were very keen in having the elections in April and May, Government felt that that would have been possible only if the process was reversed. If claims and objections were invited on the basis of electoral rolls prepared for units or for areas, and they were disposed of, and after they were disposed of electoral rolls on the basis of constituencies were made, perhaps the time that would be utilised after the constituency-wise electoral rolls were prepared could be used in the beginning so that the process of claims and objections and revisions could be got rid of and possibly the elections could have taken place in the month of April and May. It was from this point of view that Government felt that the process might be reversed, that is to say, claims and objections might be invited on the basis of preliminary electoral rolls not prepared on the basis of constituencies but on the basis of area.

That is what the Ordinance did. Now, it might be asked that since the date of the election has been postponed, is it desirable to give effect to the Ordinance? The answer to that is simple: a large part of the work which is required to be done by the Election Commissioner in the matter of the preparation of the rolls has already been done, and if the Ordinance does not become law, all that work will have to be thrown overboard and the Election Commissioner would have to begin his work *de novo*. (*An Hon. Member: Reverse gear*). Reverse gear, as my friend says. I don't think the House will desire that such a thing should happen. I am not merely considering the question of time but also the question of money which Government has spent over the work that has already been done. We have taken care in the Bill that the provisions of the Ordinance would apply only for the first elections so that in the subsequent elections the provisions of principal Act will govern the conduct of elections and the preparation of the electoral rolls. That is why we are seeking the permission of the House to give effect to this Ordinance.

The other provisions in the Bill are purely consequential-changing of qualifying date and qualifying period, and so on and so on. I don't think I need detain the House over them.

The House will be able to see for itself what those amendments are.

**Mr. Speaker :** Motion moved :

"That the Bill to amend the Representation of the People Act, 1950, be taken into consideration. "

**Shri Sarwate** (Madhya Bharat) : I may in this connection refer to article 240 of the Constitution which says that " as soon as possible...."

**Dr. Ambedkar:** Where is " as soon as possible " ?

**Shri Sarwate :** It was meant when the article was framed.

**Shri Kamath:** So far as the present Bill is concerned and so far as the Member for Manipur and Tripura in the Council of States is concerned, this Bill is silent on the point whether the President will nominate a Member who has got experience of these matters or has got a special knowledge of these matters. I would like Dr. Ambedkar to throw some light on this, but my impression is that the nominated Member will be in addition to the 12 which are referred to in clause (1) (a) of article 80 of the Constitution.

**Dr. Ambedkar:** He would be out of the 238.

**Shri Kamath:** I am glad that Dr. Ambedkar has given us the correct interpretation of this article. Therefore it is 13. Mr. Tyagi tells me that it is a bad number; I do not know whether it is really bad.

**Mr. Speaker:** I was referring to all the Members, from Part A, Part B and Part C States, because all are interested in a proper democratic set-up. I mentioned particularly those from Part C States because it is only those that are most affected by this Bill. That is why I suggested that they should be given a fuller chance. That was the point. But all should meet. So, if that is acceptable I think I may put off this matter and go to the next item of business. Is that agreeable?

**The Minister of Law (Dr. Ambedkar) :** I am prepared to accept that suggestion.

**Shri J. R. Kapoor:** May I complete what I wanted to say?

**Mr. Speaker:** Order, order. He will now have ample opportunity of talking, and more fully, in the informal conference. The Hon. the Law Minister will hear him more fully than what he can do now. So we might adjourn this matter. But when shall we take it up? It is an important matter.

**An hon. Member:** Day after tomorrow.

**Mr. Speaker:** The Hon. the Law Minister might say when we shall take it up. Hon. Members will see that we intend to finish the session by the 20th.

**An hon. Member:** By the 21st.

**Mr. Speaker:** Well, the 21st. But unless you have the break from the 20th. it won't be possible.

**Shri Sondhi (Punjab):** 21st is a standby.

**Mr. Speaker :** Yes.

**Dr. Ambedkar:** I suggest Saturday either morning or evening—after the House rises or before it meets.

**Mr. Speaker:** I am not talking of the time for the conference. They can meet at any time. I was asking as to when we are to take up this business again.

**Dr. Ambedkar:** On Monday.

**Mr. Speaker:** I have no objection. Then let us put it off to Monday the 18th by which time we expect something agreed will come up. I am really sorry for interrupting Mr. Kapoor's speech, but then the House will be thankful to him for having agreed to stop his speech.

#### REPRESENTATION OF THE PEOPLE (NO. 2) BILL

**The Minister of Law (Dr. Ambedkar) :** I beg to move for leave to introduce a Bill to provide or the conduct of elections to the Houses of Parliament and to the House or Houses of the Legislature of each State, the qualifications and disqualifications and disqualifications for membership of those Houses, the corrupt and illegal practices and other offences at or in connection with such elections and the decision of doubts and disputes arising out of or in connection with such elections.

**Mr. Speaker:** The question is :

" That leave be granted to introduce a Bill to provide for the conduct of elections to the Houses of Parliament and to the House or Houses of the Legislature of each State, the qualifications and disqualifications for membership of those Houses, the correct and illegal practices and other offences at or in connection with such elections and the decision of doubts and disputes arising out of or in connection with such election."

The motion was adopted.

**Dr. Ambedkar:** I introduce the Bill.

#### REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL—contd.

**Mr. Deputy Speaker:** Shall I take the Employers' Liability Bill or People's Representation Bill.

**The Prime Minister and Minister of External Affairs (Shri Jawaharlal**

**Nehru):** People's Representation Bill is a part-heard Bill. We will take that now.

**The Minister of Law (Dr. Ambedkar):** Sir, you will remember that while the debate on the motion for the consideration of the Bill was going on last time the hon. the Speaker was pleased to make a suggestion that the debate might be adjourned in order to give opportunity to me and the Members interested in Part C States to meet together and to evolve some kind of a scheme over which there might be agreement between myself and the representatives of the Part C States.

[MR. SPEAKER *in the Chair*]

I accepted the suggestion and thereafter had one or two meetings with Members of the Part C States as well as other Members of the House who felt a certain amount of interest in this Bill. As you will recall, Sir, when the debate was going on, it was found that there were three points of difference between myself and the Members who spoke for Part C States. The three points were:

1. Indirect system of election;
2. Nomination of Manipur and Tripura; and
3. Representation by rotation.

I am happy to state that it has become possible by exchange of views to arrive at a formula whereby it has become possible for me to eliminate from the Bill the provisions relating to the indirect system of election from the municipalities, local boards, village panchayats etc. It has also been possible for me to eliminate the provision regarding the representation of Manipur and Tripura through nomination. It is only with regard to the third point *viz.*, representation by rotation that it has not been possible to find a way out and it will therefore be a part of the original Bill. Now in accordance with this agreement, I have given notice of certain amendments which are already in the hands of Members. It will be seen that in place of the indirect system of election. I now propose to ask the House to agree to assist in creating an electoral college by exercise of adult suffrage and allow these electoral colleges to help the representatives which have been allotted to them by schedule 4 of the Constitution. This system of creating an electoral college for the purpose of sending representatives to the Upper Chamber by election is also proposed to be extended to Manipur and Tripura.

With regard to the other part of the Bill *viz.*, that part which deals with the enactment of the Ordinance it will of course remain and so far as the debate that took place the other day on the provisions of the Bill is concerned, I did not find that the House was in any way opposed to that part of the Bill. Therefore, having regard to this position, I do not think there is any necessity

for Mr. Kamath to insist upon his amendment to send the Bill to a Select Committee. It is now clear that the time and the date that he had fixed in his amendment has already passed and consequently the ground under his amendment has already been covered but apart from that if I had been called upon to speak on that day on his amendment, I would no doubt have said that it was not possible for me to accept the amendment in view of the fact that the provisions of the Bill relating to the Ordinance were so peremptory that without delay they had to have their legal form which the Constitution requires us to give. I therefore plead that the Bill may be taken into consideration without referring it to a Select Committee and that the amendments which I have proposed in the Supplementary List No. 6 to the Revised Consolidated List may be taken into consideration.

**Mr. Speaker:** I put the motion to the House. I believe after a long discussion, it is not now necessary to go on with further discussion of this Bill. I shall put it clause by clause and instead of having a general discussion hon. Members will get an opportunity of having their say when the clauses come before the House. Let us now specifically go to the very clauses to which Members may have any objection.

**Mr. Speaker:** As there are proposed changes in the various clauses, hon. Members will be keeping a watch so that I may not pass over any amendment.

**Clause 2.**—(*Amendment of the long title*) *Amendment made:*

For clause 2, substitute the following:

" 2. *Amendment of the long title, Act XLIII of 1950.*— In the long title of the Representation of the People Act, 1950 (hereinafter referred to as the said Act), after the words ' the preparation of electoral rolls' the words and letter ' the manner of filling seats in the Council of states to be filled by representatives of Part C States' shall be inserted."

—{*Dr. Ambedkar.*}

**Dr. Ambedkar:** It is merely to bring the Preamble in line with the purpose of the present Bill.

**Mr. Speaker;** The question is: " That clause 2, as amended, stand part of the Bill."

The motion was adopted. Clause 2, as amended, was added to the Bill.

**Clause 3.**—(*Amendment of Section 2*) *Amendment made:*

In clause 3, for the proposed new clause (cc) of section 2 of the Representation of the People Act, 1950, substitute the following:

" (cc) ' Council of States constituency ' means a constituency provided by order made under section 27C for the purpose of election of members to the



electoral college for any Part C State or group of such States referred to in section 27A."

—[Dr. Ambedkar,]

**Dr. Ambedkar:** Sir, this is merely to bring it in line with the new scheme of having elections through electoral colleges.

**Mr. Speaker:** The Bill is introduced as a whole and therefore every clause is before the House. If any hon. Member is keen to move any amendment to this clause, I think the Chair is bound to put the clause before the House.

**Shri M. A. Ayyangar:** Unless the mover withdraws.

**Mr. Speaker:** He cannot withdraw in that manner after once having placed the whole Bill before the House. The clause has to be negated by the House. But then I was following this informal procedure, simply for shortening the discussion. That is all I take it that Mr. Kamath is not moving his amendment.

**Shri Kamath:** That is correct, Sir.

**Mr. Speaker:** That means that none of the amendments is going to be moved. The question is: " That clause 4 stand part of the Bill."

The motion was negated.

**Mr. Speaker:** The question is: " That clauses 5 and 6 stand part of the Bill."

The motion was negated. Clauses 7 and 8 were added to the Bill.

**Mr. Speaker;** The question is: " That clause 9 stand part of the Bill."

The motion was negated. Clause 10 was added to the Bill.

**New clauses IOA and IOB.**

**Dr. Ambedkar:** Sir, I move:

After clause 10, insert the following new clauses:

" IOA. *Amendment of section 27, Act XLIII of 1950.*—In sub-section (4) of section 27 of the said Act, after the figure ' 23' the brackets and words '(excluding the Provison)' shall be inserted.

IOB. *Insertion of new Part IV-A in Act XILII of 1950*—After Part IV of the said Act, the following Part shall be inserted namely:

PART IV-A

Manner of filling seats in the Council of States to be filled by representatives of Part C States.

27 A. *Constitution of electoral colleges for the filling of Seats in the Council of States allotted to Part C States.*—(1) For the purpose of filling any seat or seats in the Council of States allotted to any Part C State or group of such States in the Fourth Schedule to the Constitution there shall be an electoral college for each such State or group of States:

Provided that for the purpose of filling the seat allotted to the States of Ajmer and Coorg there shall be an electoral college only for the State of Ajmer:

Provided further that for the purpose of filling the seat allotted to the States of Tripura and Manipur there shall be an electoral college for each of the said States.

(2) The electoral college for each State or group of States specified in the first column of the Fifth Schedule shall consist of the number of members specified in the second column thereof opposite to that State or group of States to be chosen by direct election.

(3) The electoral college first constituted under this Act for any State or group of State; shall be reconstituted by a fresh election every time when there is a general election held in that State or group of States for the purpose of election of members to the House of the People, and on every such reconstitution the electoral college, for that State or group of States functioning immediately before such reconstitution shall be deemed to be dissolved and the electoral college so reconstituted shall be the electoral college for such State or group of States, as the case may be for the purposes of this Act.

(4) Any casual vacancy in the seat of a member of an electoral college shall be filled by election held in the constituency concerned in the manner in which the election of that member to such seat was held.

*27B.—Council of States constituencies.*—For the purpose of election of members to the electoral college for any State or group of States there shall be the constituencies provided by order under section 27C and no other constituencies.

*2.7C. Delimitation of Council of States Constituencies.*—As soon as may be after the commencement of this Act, the President shall by order determine—

(a) the constituencies into which, each State or group of States specified in the first column of the Fifth Schedule shall be divided for the purpose of election of member to the electoral college for such State or group of States;

(b) the extent of each constituency; and (c) the number of seats allotted to each constituency.

*27D. Power to alter or amend orders.*—The President may, from time to time, after consulting the Election Commission, by order, alter or amend any order made by him under section 27C.

*27E. Procedure as to orders delimiting constituencies.*—(1) The Election Commission shall,—

(a) in consultation with the Advisory Committee set up under subsection (1) of section 13 in respect of each Part C State specified in the first column of

the Fifth Schedule, other than Bilaspur and Himachal Pradesh, formulate proposals as to the delimitation of constituencies in that state under section 27C, and

(b) in consultation with the Advisory Committee set up under the said subsection in respect of Himachal Pradesh, formulate proposals as to the delimitation of constituencies in the states of Bilaspur and Himachal Pradesh under section 27C, and submit the proposals to the President for making the order under the said section 27C.

(2) Every order made under section 27C shall be laid before Parliament as soon as may be after it is made and shall be subject to such modifications as Parliament may make on a motion made within twenty days from the date on which the order is so laid.

*27F. Electoral rolls for Council of States constituencies.*—(1) For the purpose of election of members to the electoral college for any State or group of States there shall be an electoral roll for every Council of States constituency in that State or group of States.

(2) So much of the roll or rolls for any Parliamentary constituency or constituencies for the time being in force under Part III as relate to the areas comprised within a Council of States constituency shall be deemed to be the electoral roll for that Council of States constituency.

*27G. Termination of membership of electoral college for certain disqualifications.*—If a person who is a member of an electoral college becomes subject to any disqualification for membership of Parliament under the provisions of any law relating to corrupt and illegal practices and other offences in connection with election to Parliament he shall thereupon cease to be such member of electoral college.

*Manner of States allotted to Part C States.*—Save as otherwise provided in section 27-1 the seat or seats in the Council of States allotted to any Part C State or group of such States in the Fourth Schedule to the Constitution shall be filled by a person or persons elected by the members of the electoral college for such State or group of States in accordance with the system of proportional representation by means of the single transferable vote.

*27-1. Special provisions for the filling of the seats in the Council of States allotted to the States of Ajmer and Coorg and the States of Tripura and Manipur.*—(1) The seat in the Council of States allotted to the States of Ajmer and Coorg in the Fourth Schedule to the Constitution shall be filled by a person elected by the members of the electoral college for the State of Ajmer and by the elected members of the Coorg Legislative Council in rotation, that is to say, at the first general election and at every second subsequent biennial election the said seat shall be filled by a person elected by the members of

the electoral college for the State of Ajmer and at the first biennial election and at every third subsequent biennial election the said seat shall be filled by a person elected by the elected members of the Coorg Legislative Council.

(2) The seat in the Council of States allotted to the States of Tripura and Manipur in the said Schedule shall be filled by a person elected by the members of the electoral college for the State of Tripura and by the members of the electoral college for the State of Manipur by rotation, that is to say, at the first general election and at every second subsequent biennial election the said seat shall be filled by a person elected by the members of the electoral college for the State of Tripura and at the first biennial election and at every third subsequent biennial election the said seat shall be filled by a person elected by the members of the electoral college for the State of Manipur.

(3) The casual vacancy in the seat allotted to the States of Ajmer and Coorg or to the States of Tripura and Manipur shall be filled by election in the State in which the election to fill the seat was held at the last preceding general or biennial election, as the case may be.

(4) Every election held under sub-section (1), sub-section (.2) or subsection (3) shall be held in accordance with the system of proportional representation by means of the single transferable vote,

*27J. Replacement of electoral colleges by bodies created under article 240 to function as legislatures.*—Notwithstanding anything contained in the foregoing provisions of this Part—

(a) if a body is created by Parliament by law under article 240 for any of the States specified in the first column of the Fifth Schedule, other than Bilaspur and Himachal Pradesh, to function as a legislature for that State, then after such body has been constituted it shall not be necessary to constitute or reconstitute any electoral college for that State and on the constitution of such body any electoral college for the time being functioning, for such state shall be deemed to be dissolved, and section 27H or section 271, as the case may be, shall in its application to that State, have effect as if for any reference to the electoral college for such State in that section there were substituted a reference to the body so created for such State.

(b) if any such body as aforesaid is so created for each of the States of Bilaspur and Himachal Pradesh, then after both such bodies have been constituted, it shall not be necessary to constitute or reconstitute any electoral college for those States and on the constitution of both such bodies any electoral college for the time being functioning for those States shall be deemed to be dissolved, and section 27H shall, in its application to that group of States, have effect as if for the reference to the electoral college for the said group of States in that section there were substituted a reference to the

bodies so created for those States; and

(c) if any such body as aforesaid is so created for the State of Coorg, then on the constitution of such body section 27-1 shall, in its application to that State, have effect as if for any reference to the Coorg Legislative Council in that section there were substituted a reference to the body so created for such State'."

**Mr. Speaker:** Amendment of Shri Deshbandhu Gupta moved:

In the amendment by Dr. Ambedkar, in the proposed new clause IOB, Before the existing first Proviso to sub-section (I) of the proposed new section 27A of the Representation of the People Act, 1950, insert the following new Proviso:

" Provided that for the purpose of filling the seat allotted to the State of Delhi, the elected members of all local bodies such as Municipal Committees, District Board and notified area committees and members elected to the Chief Commissioner's Advisory Council and the House of People shall form the electoral college."

**Dr. Ambedkar:** With regard to the amendment moved by my hon. Friend, Shri Deshbandhu Gupta, there are one or two points to which I would like to make a reference. In a way this amendment read with the other provisions which the House has now passed for the purpose of making provision for elected representatives of Part C States to the Upper Chamber " appears to be somewhat incongruous. There we are creating an electoral college elected by adult suffrage. Here we are retaining the original scheme contained in the Bill, namely, that the representation should be by indirect means through local authorities, but I do not think that is a very grave objection to the acceptance of this proposal in view of the fact that my hon. Friend, Shri Deshbandhu Gupta, told us this morning that all these bodies are in a very short period going to be democratized and are likely to be elected by adult suffrage. In view of that, it is a mere matter of fancy, it seems to me, whether you would take the municipality or the local board as a basis for election or whether you would go down and dilute it further and make it as the basis for election. Therefore fundamentally I have no objection to his proposal.

There are two other points to which I would like to make a reference. In view of the fact that he is making local authorities as instruments for election, it does appear that there are certain local authorities in the Delhi province where the members are not elected but are nominated. Take, for instance, the New Delhi Municipality. I understand that there is a very large element of nomination there and I do not suppose that my hon. Friend, Shri Deshbandhu Gupta, will insist that the persons who are nominated to the Delhi Municipality although they have not been elected by adult suffrage are from the point of

view of intelligence, from the point of civic sense going to be in any way inferior to persons elected, by other municipalities. I would therefore suggest that I should be quite prepared to accept his amendment provided he agrees to delete the word 'elected' from his clause. -

The second thing that I would suggest to him, which I think is a mere matter of drafting aesthetics, is that it would be better if his proposition was to be put in as sub-clause (5) of section 27A rather than as a proviso. I have gone through the whole thing. It seems to me that it would be much neater to put this as sub-clause (5). Subject to this, I have no objection to accept it.

**Shri Deshbandhu Gupta;** May I point out, Sir, that I want to have one clarification from the Hon. Minister, when he says that I should agree to delete the word 'elected', does he realise that there is a big element of nomination in other local bodies also? If the idea is only to have representation for New Delhi, which is a wholly nominated body, then, the purpose would be better served by having non-official members of the New Delhi Municipal Committee. There are 7 or 8 members. In Old Delhi, there are 50 elected and 10 nominated members. In Shahdara there are 10 elected and 5 nominated members. Does he want that all these nominated Members also should be given the right to vote ?

**Dr. Ambedkar:** I do not see any reason to make any discrimination.

**Shri Deshbandhu Gupta:** I stick to the word 'elected'. But I am prepared to include non-official members of the New Delhi Municipality.

**Dr. Ambedkar:** All right.

**Mr. Speaker:** So then, I am afraid, looking at the trend of the discussion, I must put the amendment of Mr. Deshbandhu Gupta to the House.

**Dr. R. U. Singh:** But Sir, my questions have not been answered. I wanted to know two things. What is the basis on which the Legislative Councils will be elected as the populations electing the members will be very low. And secondly, whether the Hon. Minister will be pleased, in view of the points that I had stressed, to reconsider the position. As I said it is intrinsically wrong and this is a hotch-potch arrangement for which there is no justification. I would like to hear what Dr. Ambedkar has to say. .

**Mr. Speaker:** Has the Hon. Law Minister followed the point which the hon. member is raising ?

**Dr. Ambedkar:** Some hon. members have always felt that I am one of the hardest nuts in the cabinet. I now find the advantage of being a hard nut. To be yielding to all people, all and sundry, lands one in the difficulty in which I find myself now. If I had decided to stick to the original position, probably I might not have been in the difficulty in which I find myself now.

But having accepted the position on the assurance, of course, that the elections to these municipal bodies are going to be based upon adult suffrage, I do not think that there was any very great principle involved, in accepting the suggestion made by my friend Mr. Deshbandhu Gupta.

Secondly, as hon. Members will see, this scheme may not even come into operation, because in the amendment that I have moved, I have made provision that if Parliament provides by law for the creation of legislative bodies as it is done in other Part B and Part A States, elections then will take place on the basis of the newly created bodies. Having regard to these facts, I am not disposed to attach very great importance to the decision, whether it is taken one way or the other, because I feel that if there is enough pressure and if there is enough time, Parliament may be persuaded before the elections come, to take upon itself the responsibility of having legislatures, giving effect to Article 240. Therefore, for the present, what I would insist is that the word "elected" be removed. And probably, I would like that with regard to New Delhi where I understand there is a very large element of nomination, I would restrict the representation of New Delhi to non-official persons. With that I think the House should be content, for the moment.

**Shri Sondhi :** What about the non-official members of other bodies? We should not discriminate between one body and another.

**Dr. Ambedkar :** With regard to other bodies in other Part C States, we need not go into it very much now because we are creating electoral colleges on the basis of.....

**Shri Sondhi:** I was referring to unofficial members who are nominated to other bodies. The hon. Member referred only to nominated members in New Delhi. We cannot discriminate between them.

**Dr. Ambedkar:** Under the new scheme probably the nonofficial elements will disappear.

**Mr. Speaker:** Let us not carry on the discussion any further.

**Shri Deshbandhu Gupta:** The Hon. Law Minister said that the word "elected" should go and be replaced by "nonofficial body" for Delhi and New Delhi. Is that his desire?

**Dr. Ambedkar:** Yes, that would simplify the matters.

**Shri Tyagi:** But it has to be made clear that the Law Minister has accepted this on condition and in the hope that the new elections will be on the basis of adult suffrage and that they will be conducted in time for the general elections. We know that in these old boards a large part of the new populations are not represented or reflected at all. Not to give them representation will be very wrong.

**Shri Kamath:** Sir, I would like to bring to your notice

that Dr. Ambedkar a little while ago referred to hon. Members as " all and sundry ". I do not know if it is quite proper. It may not be unparliamentary, but it is not dignified, I believe. So I request you to give your views, if not your ruling on this point.

**Mr. Speaker:** I do not give that expression any vulgar meaning. And he did not mean Members of Parliament. So many people come before the Ministers over this and that, and the words " all and sundry " do not apply solely to Members of Parliament. At any rate no hon. member need think that the cap fits him.

**Shri B. Das:** Sir, the Hon. Health Minister who controls the Delhi Municipal bodies has not been present here to assist us. Could we not decide this question later with her assistance also ?

**Mr. Speaker:** It was not expected that, after informal conferences and after postponing the question for the purpose of the conference, this point will be again discussed. I have been expecting a spirit of give and take, just a little giving in here and there. After all, humanly it is impossible to do absolute justice to everyone. Let us try to do as much justice as we can. And so I proceed further. Now how does the position stand? Do I put the amendment to the House?

**Dr. Ambedkar:** It is suggested that instead of the word " elected " we may have the words " Members other than officials " .

**Shri Deshbandhu Gupta:** I accept this change.

**Mr. Speaker:** Let there be no more discussion, but let us get through with the Bill. Otherwise hon. Members will not get sufficient time tomorrow for the other Bills. My difficulty comes now. How am I to put the amendment ?

Order, order, let there be less noise in the House.

**The Minister of Transport and Railways (Shri Gopaldaswami):** I would like to suggest to the Law Minister the desirability of omitting the words " such as " I think we ought to say " Members of Municipal Committees District Board and notified area Committees ". If we put in the words " such as " it would mean as if there were other categories of local bodies in which you want to refer.

**Shri Deshbandhu Gupta:** The reason for having those words is, there is the Delhi Improvement Trust.

**Dr. Ambedkar:** But in my copy I do not find the words.

**Mr. Speaker:** Mr. Deshbandhu Gupta may withdraw his amendment and the Hon. Minister may move his amendment.

**Dr. Ambedkar:** I am accepting it with certain modifications, and putting it as sub-clause (5) of article 27-1.



**Mr. Speaker:** Is the hon. Member Deshbandhu Gupta agreeable to this course ?

**Shri Deshbandhu Gupta:** Yes. The amendment was, by leave, withdrawn.

**Dr. R. U. Singh:** Sir, I raised the question of Coorg and it has not been answered.

**Mr. Speaker:** Any Member may raise any question but the Minister need not answer every question. We must now proceed with the business in a reasonable manner as quickly as possible. The Minister is substantially accepting the amendment.

**Dr. Ambedkar:** I propose the amendment of which I have given notice just now. It is purely nominal and consequential and I propose to include Deshbandhu Gupta's amendment also in my amendment.

**Mr. Speaker:** In the case of these amendments, it is better that we read them. I find a little difficulty because these are not circulated to hon. Members. Therefore, the alternative courses open to us are either the amendments are read in the House or we postpone this clause and take up the next clause and keep this pending. There remains only one clause— clause II. Then there is a further amendment by Dr. Ambedkar in respect of the schedule. That may be disposed of.

**Shri Jawaharlal Nehru :** Why not have the amendments read out?

**Mr. Speaker:** After disposal of clause II and the amendment of Dr. Ambedkar giving a new clause, the whole ground will be clear and there will remain nothing except the amendments. At this stage, we put this matter just aside for a few minutes— not till tomorrow necessarily. I go to clause II.

**Shri Dwivedi (Vindhya Pradesh):** There are some amendments to Clause 11A.

**Mr. Speaker:** That I am just putting off. It is rather unfortunate that hon. Members are engaged in talking and do not follow the proceedings.

The question is: "That clause II stand part of the Bill".

The motion was adopted. Clause II was added to the Bill.

**New Clause IIA Dr. Ambedkar:** I beg to move:

After clause II, insert the following new clause:

"IIA. *Addition of new Fifth Schedule to Act XLIII of 1950*— After the Fourth Schedule to the said Act, the following Schedule shall be added, namely:

#### **"THE FIFTH SCHEDULE**

[See sections 27A(2), 27(a), 27E(1) and 27J(a)]

*Number of Members of Electoral Colleges*

Name of State	Number of Members	
1. Ajmer	20	
2. Bhopal	20	
3. Bilaspur and Himachal Pradesh		25
4. Kutch	20	
5. Manipur	20	
6. Tripura	20	
7. Vindhya Pradesh		50

Mr. Speaker: Amendment moved: Same as above.

Shri Dwivedi: I beg to move:

In the amendment by Dr. Ambedkar in the proposed new clause 11A, for the proposed Fifth Schedule of the Representation of the People Act, 1950, substitute the following:

**" THE FIFTH SCHEDULE**

**{See sections 27A(2), 27C(a), 27E(1) and 27J(a)}**

***Number of Members of Electoral Colleges***

Name of State	Number of Members	
	<b>1</b>	<b>2</b>
1. Ajmer		<b>30</b>
2. Bhopal	<b>30</b>	
3. Bilaspur and Himachal Pradesh		<b>42</b>
4. Kutch		<b>30</b>
5. Manipur		<b>30</b>
6. Tripura		<b>30</b>
7. Vindhya Pradesh		<b>60</b>

In the morning I had a talk with Dr. Ambedkar along with certain other representatives of Part C States and we suggested to him that if a small Electoral College is created there will be difficulty and smaller the electoral college, it is likely to give some cause for corruption. It was therefore suggested that there should be bigger electoral College and this suggestion was accepted by Dr. Ambedkar. Therefore this amendment was proposed by me and others. Sir I move.

Mr. **Speaker** : Amendment (of Shri Dwivedi) as mention above moved:

**Dr. Ambedkar**: Sir, I accept the amendment.

**Mr. Speaker**: Are there any other amendments to this particular clause?

**Dr. Ambedkar:** Yes, they are just formal re-numbering the letters etc.

**Mr. Speaker:** That we shall take up later. If this amendment is accepted, I will put to the House the amended clause.

**Shri Kamath:** The first schedule to the Representation of People Act, 1950 has listed Andaman and Nicobar Islands among the part C States. I do not know what its position is now.

**Mr. Speaker:** It has already been cleared in the opening address that there is nothing there. It is a penal settlement only. So I will put the amendment to vote. The question is :

The motion of Shri Dwivedi was adopted.

**Mr. Speaker:** The question is:

After clause II insert the following new clause:

"IIA. *Addition of new Fifth Schedule to Act XLIII of 1950*— After the Fourth Schedule to the said Act, the following Schedule shall be added, namely: (Schedule as above)

The motion was adopted. New Clause 11A was added to the Bill.

**Mr. Speaker:** There is no other clause to be taken up excepting 10-B.

**An hon. Member:** There are formal amendments.

**Mr. Speaker:** Formal amendments like re-numbering and re-lettering will be taken up at the end.

**Dr. Ambedkar:** Clause 12 has not been put. **Mr. Speaker:** Yes, clause 12 remains. Clause 12 was added to the Bill.

**Dr. Ambedkar:** Sir, I do not know whether you have put to the House my amendment No. 2 in Supplementary List No. 7, regarding the addition of a new clause 27-J. It has been taken as moved but it has not been put and accepted.

**Mr. Speaker:** That has to be put. It will be a part of IO-B.

**Dr. Ambedkar:** Yes, but it is on a separate list—that was why I was wondering.....

**Mr. Speaker:** Clause 10-B was held over. I shall put that in due course after disposing of the other amendments, but it is just possible that I may forget, in which case hon. Members will invite my attention to it.

Now do we proceed to clause IO-B ?

**Some hon. Members:** Let us finish it.

**Mr. Speaker:** If it is the desire of Members to finish it, I have no objection.

**Some hon. Members:** No, Sir, we shall adjourn now.

**Mr. Speaker:** I myself have been feeling a little diffident about it. Though the amendment may be formal, yet it is a long amendment and hon. Members should have an opportunity of seeing and studying it. Therefore, we might

now adjourn and re-assemble tomorrow at 2 p.m. And I may say that the longer we discuss this tomorrow the shorter the time for the other Bill because the guillotine for the other Bill will be applied at 6 p.m. sharp. We are not sitting day after tomorrow.

*The House then adjourned till Two of the Clock on Friday, the 22nd December 1950.*

#### REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL— *Contd.*

##### New Clauses IOA and IOB

Mr. **Speaker**: We will now proceed with the further consideration of the Bill to amend the Representation of the People Act. We were discussing yesterday clauses IOA and IOB and certain amendments moved by hon. Members.

**The Minister of Law (Dr. Ambedkar)** : Sir, I drew your attention to the fact that there was an amendment standing in my name. It is amendment No. 2 in Supplementary List No. 7. I should like to move it at this stage. The first amendment was moved by my friend Mr. Gupta. The second has remained undisposed of. May I move it ?

**Mr. Speaker**; Yes. Will he move the other amendment also ?

**Dr. Ambedkar**: This was an independent amendment— addition of a clause. My other amendment would include Mr. Gupta's amendment.

**The Minister of State for Transport and Railways (Shri Santhanam)** : I think all the amendments have been placed before the House. This has only to be adopted.

Mr. **Speaker**: Those that came subsequently have not been placed by me before the House.

**Dr. Ambedkar**: I shall formally move the amendment I beg to move:

In the amendment proposed by me, in the proposed new clause IOB, after the proposed new section 271 of the Representation of the People Act, 1950, insert the following new section 27J and re-number the subsequent section as section 27K:

*"27J. Power of electoral colleges or the Coorg Legislative Council to elect notwithstanding vacancies therein.—No election by the members of an electoral college or the elected members of the Coorg Legislative Council under this Act shall be called in question on the ground merely of the existence of any vacancy in the membership of such college or Council, as the case may be."*

It is just to remove any difficulty or doubt that might exist.

**Mr. Speaker**: Amendment moved: (as above). There are other amendments also.

**Dr. Ambedkar :** Yes, in supplementary list No. 8. I thought if this was disposed of I could move the others.

**Mr. Speaker:** I take it that this is an agreed amendment, that hon. Members are agreeable to it. Shall I put it to the House ?

**The Minister of Transport and Railways (Shri Gopaldaswami) :** May I draw your attention to one point? Would this amendment not need some modification if you are accepting the other kind of electorate that is proposed for Delhi ?

**Dr. Ambedkar:** That also is described as an electoral college.

**Shri Gopaldaswami :** Is it ?

**Dr. Ambedkar: Yes.**

**Mr. Speaker:** The question is:

In the amendment proposed by Dr. Ambedkar, in the proposed new clause 1OB, after the proposed new section 271 of the Representation of the People Act, 1950, insert the following new section 27J and re-number the subsequent section as section 27K:

"27J. *Power of electoral colleges or the Coorg Legislative Council to elect notwithstanding vacancies therein.*—No election by the members of an electoral college or the elected members of the Coorg Legislative Council under this Act shall be called in question on the ground merely of the existence of any vacancy in the membership of such college or Council, as the case may be."

The motion was adopted.

**Mr. Speaker:** I believe the amendment to incorporate sections 27A to 27J have already been moved. I would now take the amendments in supplementary list No. 8.

**Dr. Ambedkar:** I think it would be better if I move them *seriatim*.

**Mr. Speaker:** The amendments in supplementary list No. 8 which are amendments to that amendment, have to be moved. My idea is to have all the amendments once before the House and then we will proceed, for purposes of discussion and voting, in parts rather than put the whole clause immediately.

**Dr. Ambedkar:** I beg to move:

(i) In the amendment proposed by me, in the proposed new clause IOB, in sub-section (3) of the proposed new section 27A of the Representation of the People Act, 1950, after the words " for any State or group of States " occurring in line two, insert the words " so specified ".

(ii) In the amendment proposed by me, in the proposed new clause IOB, in sub-section (4) of the proposed new section 27A of the Representation

of the People Act, 1950, after the words "electoral college " insert the words, brackets and figure "for any such State or group of States as is referred to in sub-section (2) " .

(iii) In the amendment proposed by me, in the proposed new clause IOB, after sub-section (4) of the proposed new section 27A of the Representation of the People Act, 1950, add the following new subsection : "(5) the electoral college for the State of Delhi shall consist of—

(a) the members of the House of the People representing that State;

(b) the non-official members of the Advisory Council of the Chief Commissioner of Delhi ; and

(c) the non-official members of every Cantonment Board, District Board, Municipal Committee and Notified Area Committee within that State."

(iv) In the amendment proposed by me, in the proposed new clause IOB, in the proposed new section 27B of the Representation of the People Act, 1950, after the words "any State or group of States " insert the words " specified in the first column of the Fifth Schedule " .

(v) In the amendment proposed by me, in the proposed new clause IOB, in sub-section (1) of the proposed new section 27F of the Representation of the People Act, 1950, after the words "for any State or group of States" insert the words " specified in the First column of the fifth Schedule" .

(vi) "That the necessary corrections for the numbering and lettering of the clauses in the Bill and of the sections inserted by the Bill be carried out together with consequential corrections of cross references."

**Mr. Speaker:** Amendment moved: (as above) In the amendment by Dr. Ambedkar, in the proposed new clause IOB, in clause (b) of the proposed new section 27J of the Representation of the People Act, 1950,—

(i) after the words " so created " occurring in line one, insert the words "jointly or",

(ii) after the words "then after" occurring in line three, insert the words " such body has or "; and

(iii) after the words "constitution of" occurring in line six, insert the words " such body or " .

I should like the Hon. Law Minister to clarify the point.

**Dr. Ambedkar:** There are two objections to this amendment. The first is a Constitutional objection which arises out of the provisions contained in article 240 of the Constitution. I think it is quite clear from the amendment of my hon. friend Dr. Parmar that he supposes that it would be possible for Parliament to create one single legislature for these two areas, namely Himachal Pradesh

and Bilaspur. I submit that it would not be open to Parliament to do any such thing because article 240 says:

" Parliament may by law create or continue for any State specified in Part C of the First Schedule..." which means that if Parliament wants to create legislative bodies for the States mentioned in Part C, it shall have to create for each Part C State a separate legislative body. There is no authority given by article 240 to create a joint legislature. On that ground, this amendment is not in order.

My second submission is this. I believe my hon. friend suggested that it might be possible for Bilaspur to be merged in Himachal Pradesh, and in that event, that would constitute a single State. That possibility, I do not deny; but the consequence of that would be that we shall have to amend this Bill and make Bilaspur a merged State, which stands on a quite different footing, and would not come within the four corners of the Bill as presented to Parliament.

Therefore, my submission is that it is not possible for me to accept the amendment in view of the objections that I have stated.

**Shri J. N. Hazarika** (Assam) : Sir, section 27J which has now been renumbered as 27K is absolutely unnecessary, because this clause is likely to create.....

**Mr. Speaker:** To which clause is the hon. Member referring?

**Shri J. N. Hazarika:** Section 27J. It is likely to create some delusion in the minds of the people in Part C States.

**Mr. Speaker ;** Hon. Member may please see that section 27J has just been replaced by an amendment which has been carried by this House. Would he refer to the new section 27J as just adopted by the House?

**Shri J. N. Hazarika:** It has become 27K now.

**Dr. Ambedkar:** After my amendment, section 27J would become 27K.

**Mr. Speaker :** ..... .Then we come to the first amendment of Dr. Ambedkar to his own amendment. After disposing of it, we shall come to the main amendment. The first amendment which Dr. Ambedkar has moved to his own amendment is in Supplementary List No. 8.

**Dr. Ambedkar:** The one about the addition of the words " so specified ".

**Mr. Speaker:** The amendment is, more or less, a formal one. The question is:

In the amendment by Dr. Ambedkar, in the proposed new clause IOB, in sub-section (3) of the proposed new section 27A of the Representation of the People Act, 1950, after the words "for any State or group of States" occurring in line two, insert the words "so specified".

The motion was adopted.

**Mr. Speaker:** Then we come to the second amendment. That is also, more or less, a formal amendment. The question is:

In the amendment by Dr. Ambedkar, in the proposed new clause IOB, in sub-section (4) of the proposed new section 27A of the Representation of the People Act, 1950, after the words "electoral college" insert the words, brackets and figure " for any such State or group of States as is referred to in sub-section (2) ".

The motion was adopted.

**Mr. Speaker:** Now we come to the amendment regarding the Electoral College for the State of Delhi, and which is proposed to be added as sub-section (5) of section. 27A. What does Mr. Tyagi want to say ?

**Shri Tyagi:** Sir, I only want to enquire what will be the meaning of the word " non-official ".

**Dr. Ambedkar:** Other than official, that is all.

**Shri Tyagi:** .....Those who have no office, they are non-official, persons like me, Sir. But persons like Shri Jawaharlal Nehru and Dr. Ambedkar they hold offices, and they are not non-officials. I hold no office and therefore, I am a non-official. Therefore, I request that a clear definition of the word " non-official " may be given, unless it be that it is given in some other Act. Otherwise this will lead to difficulties.

**Dr. Ambedkar:** The word " non-official " is so elemental that I should have thought that it would be very, very difficult to find a simpler phraseology; and I suggest to my friend Mr. Tyagi that if he was involved in any legal dispute about this word, if he engages even a third-class lawyer, he will be able to get sufficient advice.

**Shri Deshbandhu Gupta :** I only want to point out that there is no official Member of the Advisory Council. Here in (b) it is said that the non-official members of the Advisory Council of the Chief Commissioner etc. There is no official at all. Therefore, if it is not necessary, this word ' non-official' may be dropped. I am suggesting it to the Mover.

**Dr. Ambedkar:** It cannot do any harm.

**Shri M. A. Ayyangar;** .....Then under section 134 rules were framed. When the Government of India Act was repealed an Ordinance was issued defining who were 'officials' and who were ' non-officials '. This Ordinance has lapsed. What is the present position ? If in 1919 they were defined and later on under the Ordinance also it was found necessary to define the words, why should we not define it here also ? That lacuna must be made up. It is not such a



simple term that it can be found in a dictionary. It will depend upon the interpretation that is put on it. It is a very valid objection.

**Dr. Ambedkar :** I am sure the matter is covered. If it is not covered it is not difficult to cover it.

**Mr. Speaker:** Then comes addition of Part IV. 27A is proposed to be added.

**Dr. Ambedkar:** I would like to move an amendment to IOB. I beg to move:

In the proposed new clause IOB of the Bill, in the proposed section 27A of the representation of the People Act, 1950, for the words " Tripura and Manipur " substitute the words " Manipur and Tripura. "

The motion was adopted.

**Mr. Speaker:** The hon. Members will remember that out of the five amendments moved this morning by Dr. Ambedkar, three related to 27A which have been carried by this House.

I find that nobody wishes to move any of the amendments or make any speech further. So I shall come to all the clauses together, because I find that other amendments are only verbal.

Does any hon. Member wish to address himself to any particular clause now? No. Then I will put all the clauses— 27—D, E,F,G,H, I.....

**Dr. Ambedkar:** With regard to 27-1, Sir, with your permission I would like to move a small amendment to sub-clause (2), like the one I had moved earlier, namely, instead of Tripura and Manipur, it should be Manipur and Tripura.

**Mr. Speaker:** Then there is a further amendment proposed by Dr. Ambedkar. The question is:

" That the necessary corrections for the numbering and lettering of the clauses in the Bill and of the sections inserted by the Bill be carried out together with consequential corrections of cross references. "

The motion was adopted. Clause I was added to the Bill. The Title and the Enacting Formula were added to the Bill.

**Dr. Ambedkar:** I beg to move: "That the Bill, as amended, be passed.

**Mr. Speaker:** Motion moved: "That the Bill, as amended, be passed.

The motion was adopted.

**The Minister of Law (Dr. Ambedkar) :** I beg to move for leave to introduce a Bill to provide for the conduct of elections to the Houses of Parliament and to the House or Houses of the Legislature of each State, the qualifications and disqualifications for membership of those Houses, the corrupt and illegal Practices and other offences at or in connection with such elections and the

decision of doubts and disputes arising out of or in connection with such elections.

The motion was adopted.

**Dr. Ambedkar** : I introduce the Bill.

## REPRESENTATION OF THE PEOPLE (No. 2) BILL

**The Minister of Law (Dr. Ambedkar)** : I beg to move :

" That the Bill to provide for the conduct of elections to the Houses of Parliament and to the House or Houses of the Legislature of each State, the qualifications and disqualifications for membership of those Houses, the corrupt and illegal practices and other offences at or in connection with such elections and the decision of doubts and disputes arising out of or in connection with such elections, be referred to a Select Committee consisting of Shri M. Ananthasayanam Ayyangar, Pandit Thakur Das Bhargava, Shri Frank Anthony, Pandit Hriday Nath Kunzru, Shri M. A. Haque, Shri Mahavir Tyagi, Shri Biswanath Das, Shri Sarangadhar Das, Sardar Bhopinder Singh Man, Srijut Rohini Kumar Chaudhuri, Shri Girija Sankar Guha, Shri Khandubhai K. Desai, Shri S. Sivan Pillay, Shri Chandrika Ram, Shri T. R. Deogirikar, Shri P. Basi Reddi, Dr. Syama Prasad Mookerjee, Shri Hussain Imarn, Shri M. V. Rama Rao, Shri Gokulbhai Daulatram Bhatt, Shri Raj Bahadur, Kumari Padmaja Naidu, Shri S. Nijalingappa, Shri Ramnath Goenka,

Shri Hari Vishnu Kamath, Shri S. N. Mishra, Shri L. Krishnaswami Bharathi, Shri Surendra Mohan Ghose, Shri Krishna Kant Vyas, Shri M. L. Dwivedi and the Mover, with instructions to report by the end of the third week after the commencement of the next session of Parliament."

**Pandit Maitra** (West Bengal) : What will be the quorum?

**Dr. Ambedkar**: The quorum, I understand, is provided by rules, namely, one-third.

Sir, this Bill, as members must have noticed, is a very long Bill and contains 163 clauses. It would take me much beyond the time that is available now for the consideration of the motion, if I were to enter upon a full and complete description of the various provisions contained in these 163 clauses. This Bill has already been in the hands of Members of Parliament for at least three or four days and I am sure that they must have found time to go over the clauses of the Bill and to understand the main purport of the clauses incorporated therein. I do not think, therefore, I am called upon to give an exhaustive expose of the matters included in this Bill. I, therefore, propose to be very brief.

The House will recall that at an earlier Session of the Parliament a Bill for

the Peoples Representation Act, 1950, was passed by this House. That Bill dealt with the following matters: (1) allocation of seats between the different States for their representation in the lower Chamber and the upper Chamber; (2) delimitation of constituencies for the purpose of the election to the House of the People and to the Legislative Assembly of the various States; (3) qualifications of voters at such elections and (4) preparation of the electoral roll and constituencies.

The following matters were left out, namely, (1) qualifications and disqualifications for candidates to and for the members of the legislature; (2) the actual conduct of elections; (3) corrupt and illegal practices; (4) the definition of election offences and (5) the constitution of the Election Tribunal for the purpose of deciding election disputes.

I should have been very happy myself if the provisions of the last Bill and the provisions contained in this Bill had been incorporated in a single Statute, so that hon. Members would have had the facility of carrying one single Statute covering all matters affecting the representation of the people in the Central Legislature as well as in the State Legislatures. But, unfortunately, it was not possible to do so, because it would have taken a very long time, it was felt better to cut up the matter into two parts, that is to say, to provide for the constituencies, for the voters' qualifications and so on, in an earlier measure, so that the Election Commission would have been in a position to start work with a view to putting through the elections by April or May. That was the reason why a certain part of the matter which was, so to say, integral with matters contained in this Bill were severed and put into an earlier piece of legislation.

Now, Sir, as I have said, the present Bill deals with five matters. I am sure the House will not expect me to go over the whole gamut of the provisions relating to each of these five parts. I will take up certain important provisions which I am sure the House will be interested to know at this stage.

Now, first of all, I will take up the question of the qualifications and disqualifications for candidates. So far as the elections for candidates is concerned, we do not impose any additional qualification except that he must be a voter, that is to say, he must be a citizen, he must be of 21 years' age and must have resided in a particular constituency for the qualifying period. Every voter will, therefore be entitled to stand as a candidate without requiring to fulfil any additional qualification. One other matter to which I would like to draw attention in this connection is this, that in the present Bill we have removed all residential qualifications. At one time, hon. Members will remember, that a candidate was not only required to be a voter, but was also required to be a resident in that particular constituency. Otherwise, he could

not stand. It was felt that in view of the fact that we are now a united people under one single Constitution, recognising no barriers of caste, creed, community or provincial barriers, it was desirable to provide that any person who is entitled to be a candidate may stand anywhere in India, notwithstanding the fact that he does not belong to that province or to that constituency.

[MR. DEPUTY SPEAKER *in the Chair*]

So that under the provisions of the Bill a person may not only stand as a candidate in his own constituency but he may stand as a candidate in any other constituency in his State, nay, he may stand as a candidate in any other State where he has not resided, provided he is a qualified voter in some particular constituency. That is with regard to qualifications.

With regard to disqualifications what we have done is this. Hitherto the law relating to disqualification was scattered in different statutes. Part of it was laid down in the Government of India (Provincial Elections, Corrupt Practices and Election Petitions) Order of 1936 issued by the Secretary of State after the passing of the Government of India Act, 1935. Other provisions were to be found in the Indian Elections Offences Enquiry Act, 1920. It was felt that it would be much better to have a consolidated list of disqualifications in this very Act. And that is what has been done.

I may here mention that it was my proposal that the holding of a contract with the Government should also be a matter for disqualification. Such a provision exists in the U. K. Act. But I thought that it might be better to consult the Select Committee on this particular provision whether the disqualification should be for standing as a candidate or whether the disqualification should be limited to continuing to be a Member of Parliament. As I myself was not certain which course to adopt I have left the question open to be decided by the Select Committee.

Now I come to another matter, namely, the conduct of elections. In this connection I would like to draw the attention of the House to certain new features that are contained in the Bill with regard to nomination. As the House will remember, under the existing law the question of the validity of the nomination of a candidate can be canvassed, discussed and decided upon on an election petition. I have always felt that that is a very harsh procedure. The question of nomination is so to say a preliminary issue and there is no reason why this preliminary issue should be kept hanging, allowing the whole election to take place, forcing people to spend their time and their energy in contesting the election, and subsequently somebody comes up and says that the elected candidate has not been validly nominated. So that, without getting into the merits of the election the practice is followed and the whole thing is disposed

of on a preliminary issue. I think it is right that in the matter of election petitions it is desirable to separate this preliminary issue from the other issue as to whether the election is valid on other grounds or not. I have therefore proposed in this Bill that this issue shall be treated as a preliminary issue and the Election Commission shall make some provision for the purpose of constituting some tribunal to which any dispute as regards the validity of nomination will be referred and disposed of finally: so that when the election takes place no such issue could be raised before the tribunal. I am sure this is a very salutary provision. I am sorry, on the advice of the Election Commissioner, it would not be possible to give effect to this provision at the time of the first election, because he thinks' that he has not got sufficient time to think about forming an ad hoc tribunal which may be set up to come and give relief to the contestants. But, as I say, if the Select Committee thinks that this should also be applied then I would have no objection.

Under the conduct of elections I should also like to draw attention to another important matter, namely, method of voting. This Bill provides that some constituencies shall be two member constituencies. That is inevitable in view of the fact that the Constitution provides for the reservation of seats for the Scheduled Castes and the Scheduled Tribes. The fact that you have reserved constituencies presupposes at least two-member constituencies.

**Pandit Thakur Das Bhargava** (Punjab) : Why ? It is not inevitable.

**Dr. Ambedkar:** That is a matter which you may discuss but that is how the Bill proceeds upon. There will therefore be some two-member constituencies. The other constituencies will be single-member constituencies. In the two-member constituencies the voting will be by distributive vote.

Now I come to the Election Tribunal.

**Pandit Maitra:** May I know whether in no case there will be three-member constituencies ?

**Dr. Ambedkar:** I am going to say at the end that these are not matters which can be taken as concluded.

With regard to the Election Tribunal the position is this. There are of course a variety of ways in which an election tribunal could be constituted. Either you can constitute an election tribunal whose authority will be final, without any right of appeal, or you can have a tribunal whose decision will be subject to an appeal. As I said, on this there cannot be any dogma. One has to decide in the light of public opinion. But the Bill proceeds upon the assumption that there should be some sort of a right of appeal to the High Court. It is also assumed that the public has a greater confidence in the official machinery for the disposal of election disputes. Non-officials, it is said, may have a bias

which may prejudice the ultimate judgement in the case of an election dispute. Consequently what the Bill proposes to do is to have a two-member tribunal. The Chairman will be the District Judge and the other member will be a judicial officer. He may not be a District Judge. He may be some other judicial officer, but an official. The point is this that it is difficult to imagine at this stage what would be the number of election petitions. In view of the fact that the people of this country are so enamoured of politics so far as I see—having almost a passion for politics—I surmise that there might be a very large number of election petitions. If that happens and if you wish that the machinery to decide appeals should be official, the number of District Judges that may be available today would be found to be considerably insufficient to cope with the task. It is therefore that the second Member is described as a Judicial Officer. He may not be of the rank of the District Judge. In addition to that, it has been provided that the High Courts in the different provinces may prepare a list of advocates, who in the opinion of the High Court, may be deemed to be sufficiently qualified and reliable to be employed as Members of this Tribunal. That is again on the supposition that the petitions may be so large that even the Judicial Members may not suffice. *{Interruption.}* I think it is good that we should give some employment to advocates because notwithstanding the many remarks that I have been hearing I am firm enough to say civilization cannot exist without advocates. Law is the very foundation of civilization.

As I said, the Bill provides that in the case of difference of opinion in the Tribunal a reference may be made to the High Court. Another, I think, very important feature of the Bill is this. I am not very much versed in the law relating to election petitions; I have not dealt with them on a very large scale. With what little experience I have, I have come to the conclusion that the law is in the most indefinite state that one can find. You can never definitely say what are the manners in which an election petition may be disposed of. You can never be certain on what grounds the election as a whole may be declared to be void. You can never be certain what are the grounds on which the election of a particular candidate may be declared. You are never certain under the existing law what are the cases in which the Courts may entertain what is called a plea of recrimination. I have therefore devoted considerable time and attention to the clarification of this position and I would invite the attention of hon. Members to clauses 93, 95 and 96 in which they will find that the position is made as clear as one can possibly do, and I hope that this will be a great advantage both to the Tribunal as well as to the contesting candidates themselves.

Then, I come to the law of corrupt and illegal practices. Here again, the law

has been scattered in various places. I endeavoured to bring all the provisions relating to corrupt practices and illegal practices under this one Bill and you will find them codified from sections 122 onwards. Our law in a sense was defective so far as corrupt intention was concerned. The law has not made it clear that in the case of a corrupt practice what was essential was not a practice which is declared to be corrupt but the corrupt intention. With regard to the illegal practice, there is no question of intention at all; the practice is declared to be bad, but with regard to the corrupt practice in order to give a finding of guilty, it is necessary to have a finding that the intention was corrupt. You might call your friend to a dinner or lunch during the period when your election is going on. Your opponent may say that you have corrupted him. I do not know whether such a plea could be sustained but under the existing law this proviso was not there and I have tried to square up the thing, because I find that is also the provision in the English law that in a corrupt practice there must be a corrupt intention.

I know that the House is more interested in finding out what provisions are made in this Bill for a free and fair election. That, I think, is the desire of everybody and I therefore will now give to the House the provisions which relate and which are intended to bring about a free and fair election.

(1) All election meetings on the election day and the day preceding such a day have been banned. We have thought that it would be desirable to have two peaceful nights to the voters as well as to the candidates before they go to the polling-booths.

(2) Penalty has been provided for disturbance at election meetings, which I think is very desirable.

(3) Officers performing any duty in connection with an election and police officers have been prohibited from acting for candidates or to influence voters. That you will find in clause 124.

(4) Canvassing in and near polling stations has been prohibited.

(5) Penalty has been provided for disorderly conduct in or near polling stations such as the use of a mega-phone or loud speaker or shouting in or near the polling station.

(6) This is an important thing. The hiring or procuring of conveyances for bringing voters to or from the polling station has been made punishable.

(7) Breaches of official duty in connection with the elections have been made punishable.

(8) Removal of ballot papers from the polling station has also been made an offence.

(9) Personation has been made a cognisable offence throughout India, and as you will see, there are other provisions of the Bill. There is a provision

which says that every voter shall have to give his thumb impression in an indelible ink. I hope the ink will be indelible so that there will be no case of a second vote in the name of another person. We have got an enormous electorate and it would be quite difficult to find out that there is no impersonation. The only method of safeguarding it is to have some kind of mark by which when a voter comes to give a vote, it will be possible for a polling station to ascertain that he has already not voted.

These are the general provisions which are contained in this Bill. Sir, I quite see that the time at the disposal of the House is very short, having regard to the length of the Bill, but I think the House can take comfort in the fact that we have had a very large Select Committee. I do not think that any Bill has had such a big Select Committee.

**An Hon. Member;** Except the Hindu Code.

**Dr. Ambedkar:** It was also a very small Select Committee, if I remember aright but here there are about 31 Members.

**An Hon. Member:** Adult franchise?

**Dr. Ambedkar :** I have given almost adult franchise. Secondly, as I said, this does not involve any question of policy. These are mere questions of methods of bringing about a fair deal in the election and consequently, I do not propose when the Select Committee meets to raise any kind of objection to any suggestion that might be made. It will be an open forum. I should also like to say that if those Members who have not had the luck to be included in the Select Committee also care to send any suggestions either personally to me or to the Select Committee, I shall place them before the Select Committee and see that they are given due consideration. Sir, I move.

**Prof. Ranga:** .....I feel, Sir, that the Member should be given the opportunity to say which seat he wants to keep and even if he fails to declare, the result of that election which was declared first, that seat should be treated to be one for which he was elected.

**Dr. Ambedkar:** It is there, he has only to resign within the prescribed period.

**\* DEMAND NO. 13—MINISTRY OF LAW**

**Mr. Deputy Speaker:** Motion is :

" That a supplementary sum not exceeding Rs. 15,93,000 be granted to the President to defray the charges which will come in course of payment during the year ending the 31st day of March 1951, in respect of ' Ministry of Law '."

**Shri Kamath :** About this Supplementary Demand, in the last Session in the middle of the discussion of this, Parliament rose and Dr. Ambedkar had to



reply to this particular demand placed before the House at that time. The footnote says that the excess is due to the post-budget creation of a Central Agency in the Ministry of Law for the conduct of cases in the Supreme Court on behalf of the Central and State Governments. The expenditure is to be shared between the Government of India and the Governments of the participating States. Dr. Ambedkar will recollect that he had to answer this particular point raised at that time, but Parliament rose for the day and the demand was not subsequently before the House. I would be grateful if Dr. Ambedkar can throw some light on this agency created after the Budget was passed, particularly with reference to the recoveries from other Governments. How many State Governments are contributing to this agency and in what proportion, and what exactly is the work to be transacted by this Central Agency that has been created?

**The Minister of Law (Dr. Ambedkar):** Mr. Deputy Chairman, I believe—in fact I am certain—that there were two questions put to me during the course of this Session one by Mr. Raj Bahadur and another by Mr. Kazmi and I have given the fullest information on this point in reply to those two questions. If my hon. friend will take the trouble of referring to my replies, he will have all the information that he requires.

**Shri Hussain Imam:** Were they written replies or oral ?

**Dr. Ambedkar:** They were oral replies but they will appear in the record of proceedings. If required, I will give him my copy.

**Mr. Deputy Speaker :** It is here in the proceedings.